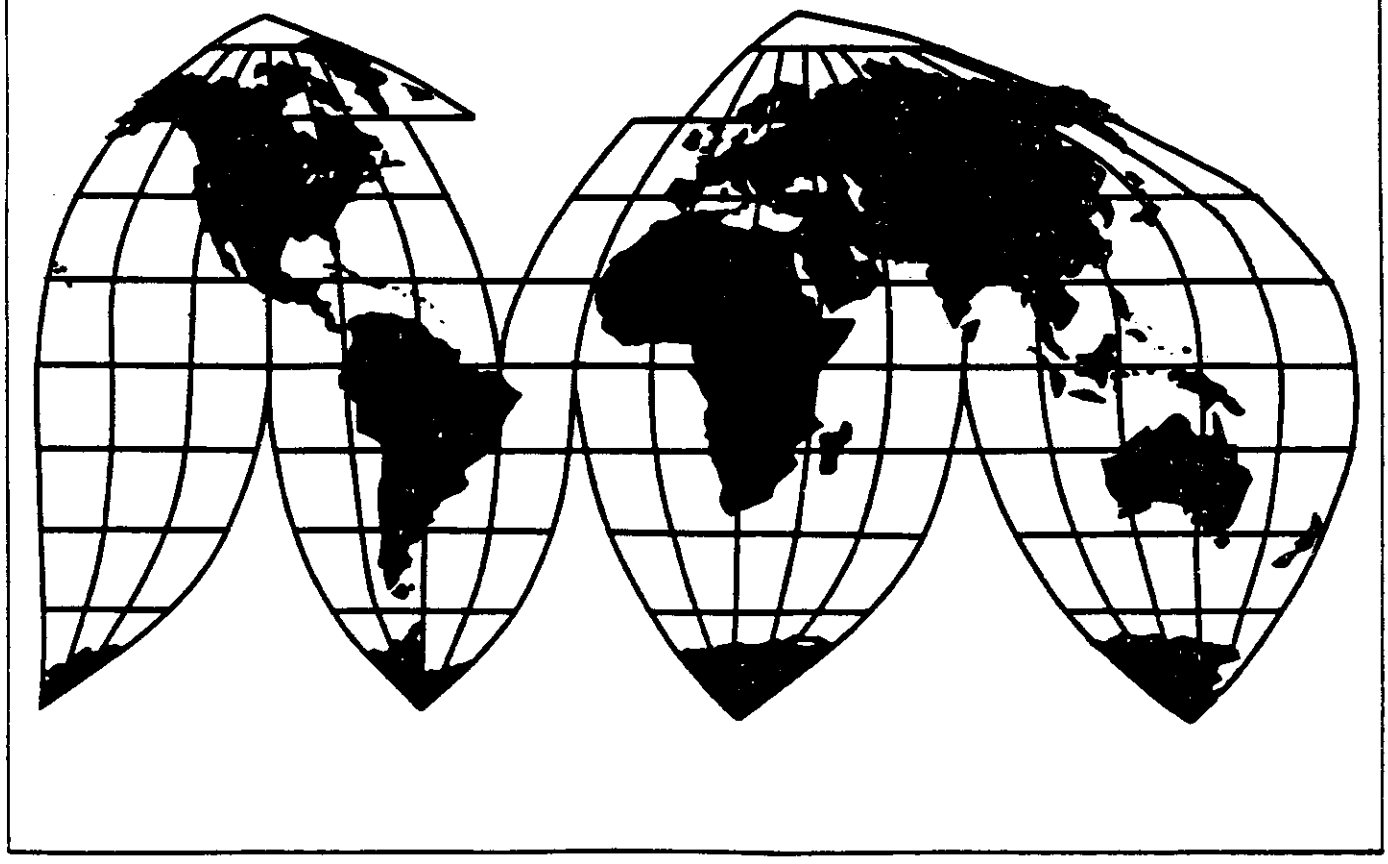
Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain

Investigations Nos. 701-TA-363 and 364 (Final)
and
Investigations Nos. 731-TA-711-717 (Final)

Publication 2911 **August 1995**

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Peter S. Watson, Chairman
Janet A. Nuzum, Vice Chairman
David B. Rohr
Don E. Newquist
Carol T. Crawford
Lynn M. Bragg

Robert A. Rogowsky
Director of Operations

Staff assigned:

Douglas Corkran, Investigator
Felix Bello, Industry Analyst
Clark Workman, Economist
James Stewart, Accountant/Financial Analyst
Anjali Singh, Attorney

Vera Libeau, Supervisory Investigator

Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436

Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain

Publication 2911

August 1995

CONTENTS

CONTENTS

CONTENTS

CONTENTS

CONTENTS

CONTENTS

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

GLOSSARY

Act	Tariff Act of 1930
Allied	Allied Tube & Conduit Corp.
API	American Petroleum Institute
Armco	Armco, Inc.
Arvedi	Acciaierie Tubificio Arvedi S.p.A.
Bellville	Bellville Tube Corp.
Bourland	Bourland and Leverich
Bovaird	The Bovaird Supply Co.
Camp Hill	Camp Hill Corp.
Cargill	Cargill, Inc.
CF&I	CF&I Steel, L.P.
Commission	U.S. International Trade Commission
Commerce	U.S. Department of Commerce
Customs	U.S. Customs Service
Dalmine	Dalmine S.p.A.
Dalmine USA	Dalmine USA, Inc.
Dongbu	Dongbu Steel Co., Ltd.
Dongkuk	Dongkuk International, Inc.
Exxon	Exxon Corp.
FMV	Foreign market value
F.o.b.	Free on board
F.R.	*Federal Register*
FTZ	Free trade zone
GATT	General Agreement on Tariffs and Trade
Grant	Grant TFW, Inc.
Grinnell	Grinnell Corp.
H&P	Helmerich & Payne International Drilling Co.
HTS	Harmonized Tariff Schedule
Hylsa	Hylsa S.A. de C.V.
Hyundai	Hyundai Pipe of America, Inc.
Hyundai Pipe	Hyundai Pipe Co., Ltd.
IPSCO	IPSCO Steel, Inc.
Joy Pipe	Joy Pipe, Inc.
Kawasaki	Kawasaki Steel Corp.
Kawasho	Kawasho International U.S.A., Inc.
Kobe	Kobe Steel, Ltd.
Koppel	Koppel Steel Corp.
Korea Steel	Korea Steel Pipe Co., Ltd.
Lone Star	Lone Star Steel Co.
LTFV	Less than fair value
LTV	LTV Steel Tubular Products Co.
Maruichi	Maruichi Steel Tube, Ltd.
Maverick	Maverick Tube Corp.
MC Tubular	MC Tubular Products, Inc.
Mitsui	Mitsui Tubular Products, Inc.
NAFTA	North American Free Trade Agreement
Newport	Newport Steel Corp.

GLOSSARY

N-I Tubulars	N-I Tubulars, Inc.
NKK	NKK Corp.
North Star	North Star Steel Ohio
NSC	Nippon Steel Corp.
NS Group	NS Group Inc.
OCTG	Oil country tubular goods
O.D.	Outer diameter
OMSCO	OMSCO Industries
Oregon Steel	Oregon Steel Mills
Paragon	Paragon Pipe
Prideco	Prideco, Inc.
Psi	Pounds per square inch
Pusan	Pusan Pipe America, Inc.
Pusan Steel	Pusan Steel Pipe Corp.
Pyramid	Pyramid Tubular Products, Inc.
Quanex	Quanex Corp.
Samsung	Samsung America, Inc.
Sawhill	Sawhill Tubular Division
SG&A	Selling, general, and administrative
Siderca	Siderca Corp.
Smith	Smith International, Inc.
Sumitomo	Sumitomo Corp. of America
Sumitomo Metal	Sumitomo Metal Industries, Ltd.
TAD	TAD USA, Inc.
Tamsa	Tamsa, Inc.
Timken	The Timken Co.
Trident	Trident Steel Corp.
Tubhier	Tubhier S.A.
Tubos de Acero	Tubos de Acero de Mexico S.A.
Tubos Reunidos	Tubos Reunidos America, Inc.
Union Steel	Union Steel Mfg. Co., Ltd.
U.S. Steel	U.S. Steel Group
USS/KOBE	USS/KOBE Steel Co.
USX	USX Corp.
Vinson	Vinson Supply Co.
Voest-Alpine	Voest-Alpine Tubular Corp.
Voest-Alpine Kindberg	Voest-Alpine Stahlrohr Kindberg GmbH
Weatherford	Weatherford Manufacturing

PART I

DETERMINATIONS AND VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 701-TA-363-364 and 731-TA-711-717 (Final)

OIL COUNTRY TUBULAR GOODS (OCTG) FROM
ARGENTINA, AUSTRIA, ITALY, JAPAN, KOREA, MEXICO, AND SPAIN

Determinations

On the basis of the record[1] developed in the subject investigations, the Commission determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b) and 1673d(b), respectively), that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of OCTG[2] from the following countries that have been found by the Department of Commerce (Commerce) to be subsidized and/or sold in the United States at less than fair value (LTFV):

Country	OCTG excluding drill pipe[1]	Drill pipe[2]
Argentina	731-TA-711[3]	731-TA-711
Italy	701-TA-364[4] & 731-TA-713[4]	-
Japan	731-TA-714[5]	731-TA-714
Korea	731-TA-715[3]	-
Mexico	731-TA-716[3]	731-TA-716

[1] These determinations are based on findings of material injury.
[2] These determinations are based on findings of threat of material injury (Chairman Watson and Commissioner Crawford finding material injury).
[3] Chairman Watson and Commissioner Crawford dissenting.
[4] Chairman Watson, Vice Chairman Nuzum, and Commissioner Crawford dissenting.
[5] Chairman Watson dissenting.

The Commission further determines that an industry in the United States is not materially injured or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports of OCTG from the following countries that have been found by Commerce to be subsidized and/or sold in the United States at LTFV:

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] OCTG are hollow steel products of circular cross-section. These products include oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether or not conforming to API or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). These investigations do not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. OCTG other than drill pipe are provided for in subheadings 7304.20 (excluding subheadings 7304.20.70 and 7304.20.80), 7305.20, and 7306.20 of the Harmonized Tariff Schedule of the United States; drill pipe is provided for in subheadings 7304.20.70 and 7304.20.80.

Country	OCTG excluding drill pipe	Drill pipe
Austria	701-TA-363[1] & 731-TA-712[1]	701-TA-363 & 731-TA-712
Italy	-	701-TA-364 & 731-TA-713
Korea	-	731-TA-715
Spain	731-TA-717[1]	731-TA-717

[1] Commissioners Newquist and Bragg dissenting.

Background

The Commission instituted these investigations effective December 2, 1994; January 24, 1995; February 2, 1995; and June 20, 1995, following determinations by Commerce that imports of OCTG from Austria and Italy were being subsidized within the meaning of section 703(b) of the Tariff Act of 1930 (19 U.S.C. § 1671b(b)) and that imports of OCTG from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain were being sold at LTFV within the meaning of section 733(b) of the Tariff Act of 1930 (19 U.S.C. § 1673b(b)). The petitions for these investigations were filed on June 30, 1994, prior to the effective date of the Uruguay Round Agreements Act. Thus, these investigations were subject to the substantive and procedural rules of the Tariff Act of 1930 as it existed prior to the Uruguay Round Agreements Act.[3]

Notices of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the *Federal Register* of January 12, 1995; February 23, 1995; and June 23, 1995. (60 F.R. 2983; 60 F.R. 10107; and 60 F.R. 32708). The hearing was held in Washington, DC, on June 27, 1995, and all persons who requested the opportunity were permitted to appear in person or by counsel.

[3] See P.L. 103-465, approved December 8, 1994, 108 Stat. 4809, at § 291.

VIEWS OF THE COMMISSION

Based on the record in these final investigations, we determine that an industry in the United States is materially injured by reason of imports of oil country tubular goods excluding drill pipe (also referred to herein as "casing and tubing") from Argentina, Italy, Japan, Korea, and Mexico that are sold in the United States at less than fair value ("LTFV").[1] [2] We also determine that an industry in the United States is materially injured by reason of subsidized imports of casing and tubing from Italy. We find that an industry in the United States is not materially injured or threatened with material injury by reason of imports of casing and tubing from Austria and Spain that are sold at LTFV or subsidized.[3]

We further determine that an industry in the United States is threatened with material injury by reason of imports of drill pipe from Argentina, Japan, and Mexico that are sold at LTFV.[4] We determine that we would not have made an affirmative material injury determination but for the suspension of liquidation. Finally, we unanimously determine that an industry in the United States is neither materially injured nor threatened with material injury by reason of LTFV or subsidized imports of drill pipe from Austria, Italy, Korea, or Spain.[5]

---

[1] Chairman Watson finds that an industry in the United States is not materially injured or threatened with material injury by reason of imports of casing and tubing from Argentina, Austria, Italy, Japan, Korea, Mexico, or Spain. Commissioner Crawford finds that an industry in the United States is not materially injured or threatened with material injury by reason of imports of casing and tubing from Argentina, Austria, Italy, Korea, Mexico, or Spain. Additionally, Commissioner Crawford finds that an industry in the United States is materially injured by reason of imports of casing and tubing from Japan. See Separate and Dissenting Views of Chairman Watson and Separate and Dissenting Views of Commissioner Crawford. They join in these views in the discussion of like product, domestic industries, condition of the industries, negligibility of casing and tubing imports from Austria and Spain, cumulation of drill pipe imports, and negligibility of drill pipe imports from Austria, Italy, Korea, and Spain.

[2] Vice Chairman Nuzum finds that an industry in the United States is neither materially injured nor threatened with material injury by reason of LTFV or subsidized imports of casing and tubing from Italy. See Separate and Dissenting Views of Vice Chairman Nuzum.

[3] Commissioner Newquist and Commissioner Bragg find that an industry in the United States is materially injured by reason of imports of casing and tubing from Austria and Spain. See Separate and Dissenting Views of Commissioner Newquist and Separate and Dissenting Views of Commissioner Bragg.

[4] Chairman Watson and Commissioner Crawford find that an industry in the United States is materially injured by reason of imports of drill pipe from Argentina, Japan, and Mexico. See Separate and Dissenting Views of Chairman Watson and Separate and Dissenting Views of Commissioner Crawford.

[5] Whether the establishment of an industry in the United States is materially retarded is not an issue in these investigations.

The petition in these investigations was filed prior to the effective date of the Uruguay Round Agreements Act ("URAA"). See P.L. 103-465, approved Dec. 8, 1994, 108 Stat. 4809, at § 291. Thus, these investigations are conducted pursuant to substantive and procedural rules of the law as it existed prior to the URAA. Accordingly, all references to the statute contained herein are to the statute as it existed prior to the URAA.

TABLE OF CONTENTS

I. LIKE PRODUCTS

A. In General

In determining whether an industry in the United States is materially injured by reason of the subject imports, the Commission must first define the "like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930 (the "Act") defines the relevant industry as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[6] In turn, the Act defines "like product" as a "product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."[7]

The Commission's decision regarding the appropriate like product(s) in an investigation is essentially a factual determination, and the Commission applies the statutory standard of "like or most similar in characteristics and uses" on a case-by-case basis.[8] No single factor is dispositive, and the Commission may consider other factors it deems relevant based upon the facts of a particular investigation. Generally, the Commission requires clear dividing lines among possible like products and disregards minor variations.[9] While the Commission must accept the determination of the Department of Commerce ("Commerce") as to which imported merchandise is within the class or kind of merchandise sold at less than fair value, the Commission determines what domestic product or products is or are like the imported articles identified by Commerce.[10]

The imported products subject to these investigations consist of:

> {H}ollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute ("API") or non-API specifications, whether finished or unfinished (including green tubes and limited service

---

[6] 19 U.S.C. § 1677(4)(A).

[7] 19 U.S.C. § 1677(10).

[8] See, e.g., Nippon Steel Corp. v. United States, Slip Op. 95-57, at 11 (Ct. Int'l Trade Apr. 3, 1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("{E}very like product determination 'must be based on the particular record at issue' and the 'unique facts of each case.'"). In analyzing like product issues, the Commission generally considers six factors, including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities and production employees; and (6) where appropriate, price. See Aramide Maatschappij V.O.F. v. United States, Slip Op. 95-113, at 4 (Ct. Int'l Trade June 19, 1995); Calabrian Corp. v. United States, 794 F. Supp. 377, 382 n.4 (Ct. Int'l Trade 1992).

[9] Torrington Co. v. United States, 747 F. Supp. at 748-49.

[10] See, e.g., Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988) ("ITC does not look behind ITA's determination, but accepts ITA's determination as to which merchandise is in the class of merchandise sold at LTFV"), aff'd, 865 F.2d 240 (Fed. Cir. 1989); Torrington Co. v. United States, 747 F. Supp. at 748.

OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium.[11]

In the preliminary investigations we found one like product consisting of all oil country tubular goods ("OCTG").[12] We indicated in our opinion that in any final investigations we would revisit the issue of whether drill pipe should be considered a separate like product from casing and tubing. We find that the evidence on the record in these final investigations warrants a finding that drill pipe is a separate like product from casing and tubing. We do not find the evidence supports a finding that heavy-weight drill pipe is a separate like product.

B. Whether Drill Pipe Should Be a Separate Like Product from Casing and Tubing

Casing, tubing, and drill pipe are all used in the extraction of oil or natural gas. In the preliminary determinations we found casing, tubing, and drill pipe to be one like product due to their overlapping physical characteristics, sales through same channels of distribution, and common manufacturing facilities and production employees.[13] In these final investigations, respondents continue to argue that drill pipe is a separate like product; petitioners argue that all OCTG should be considered one like product due to overlapping physical characteristics, evidence of interchangeability, similar channels of distribution, and common production facilities and employees.[14] We find that drill pipe is a separate like product from casing and tubing due primarily to the distinctions of drill pipe in terms of physical characteristics and end uses, and due to the lack of interchangeability between drill pipe and casing or tubing.[15]

One of the fundamental physical characteristics distinguishing drill pipe from casing and tubing is the addition of a tool joint, which is welded onto the drill pipe during finishing operations. The tool joint is a high-value, precision-engineered tool which is very different from the thread-and-couple connections used to finish casing and tubing.[16] Even prior to finishing, there are certain distinctions between drill pipe and other OCTG products: drill pipe tends to be shorter and heavier than casing or tubing; most drill pipe is made of low alloy steel, whereas casing and tubing are primarily made of carbon steel; and the average

---

[11] Final Determinations of Sales at Less Than Fair Value: Oil Country Tubular Goods From Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, 60 Fed. Reg. 33539 (June 28, 1995); Final Affirmative Countervailing Duty Determination: Certain Oil Country Tubular Goods From Austria and Italy, 60 Fed. Reg. 33534, 33577 (June 28, 1995).

[12] Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, Invs. Nos. 701-TA-363 and 364 and 731-TA-711-717 (Preliminary), USITC Pub. 2803 (Aug. 1994) at I-7-8 (hereinafter "Preliminary Determination").

[13] Preliminary Determination at I-7-8.

[14] See generally Petitioners' Prehearing Brief at 6-11.

[15] We note that in previous OCTG investigations, even though the Commission found drill pipe to be a separate like product, the Commission analyzed the drill pipe industry based on data for all OCTG, pursuant to the product line provision (19 U.S.C. § 1677(4)(D)), because the industry was unable to break out the data for drill pipe. In these investigations, there are adequate data on the drill pipe industry (beginning with 1992 data) to make a determination on data specific to the drill pipe industry. Tables A-2 and A-7, PR at A-7 and A-10; CR at A-7 and A-15.

[16] The changes in physical characteristics upon finishing are least pronounced in casing and most pronounced in drill pipe. PR at II-11; CR at I-13.

tensile strength specifications for unfinished drill pipe are higher than those for casing and tubing.[17]

While casing, tubing, and drill pipe form a single unit used in the extraction of oil or natural gas, they are individually designed to perform distinct functions. Drill pipe is a tool which transmits power from ground level to rotate the drill bit at the end of the drill string.[18] Because of drill pipe's need to withstand the extreme pressure of drilling the well hole, the tool joints which connect the drill pipe in the drill string require much more strength and endurance than the more basic coupling connections of casing and tubing.[19] Casing's function is to line the interior of the well hole in order to provide a firm foundation for the drill string. Casing can also be used as a surface pipe to conduct the recoverable oil or gas.[20] Tubing's function is to conduct the oil or gas from the subsurface to the surface.[21]

Although two U.S. mills reported that unfinished tubing can be used interchangeably with unfinished drill pipe, there is very little evidence of purchasers actually using drill pipe interchangeably with casing or tubing at the unfinished stage.[22] Once drill pipe is fitted with a tool joint there appears to be a complete lack of interchangeability. In addition, customers and even producers reported that they perceive drill pipe and other OCTG to be different products, and that those products are interchangeable only to a limited degree.[23] All types of OCTG are sold to distributors and end users, but distributors which purchase and resell casing and tubing generally do not also sell drill pipe.[24]

Five out of 16 U.S. mills reported producing unfinished drill pipe in addition to other OCTG. Only four, however, reported that the same equipment, machinery, and production employees are used to make drill pipe and casing and/or tubing.[25] Virtually all producers of OCTG reported that they can produce other non-OCTG products using the same facilities and

---

[17] PR at II-7; CR at I-7. There is some overlap in the diameter, wall thickness, and lengths of drill pipe and casing and tubing. PR at II-7; CR at I-7; Posthearing Brief of Mitsui Tubular Products at 3-4.

[18] The drill string is composed of drill pipe, drill collars, and the drill bit. The drill bit bores through the earth. PR at II-6 n.11 and II-7; CR at I-6 n.11 and I-7.

[19] Prehearing Brief on Behalf of Japanese Respondents NKK Steel Corp. and MC Tubular Products, Inc. at 4-5.

[20] PR at II-6; CR at I-6.

[21] PR at II-7; CR at I-7.

[22] PR at II-8-9; CR at I-9.

[23] Of 27 distributors who responded to the question of whether drill pipe was interchangeable with other OCTG, 6 responded that it could be in certain circumstances, but only two listed any specific instances of such an occurrence. Petitioners argued in their posthearing brief that the question posed in the purchaser questionnaires was ambiguous since it did not indicate whether the question on interchangeability was directed at the finished or unfinished stage. Staff conducted follow-up interviews which confirmed limited interchangeability among unfinished products and none among finished products. PR at II-8-9 & nn.23 & 24; CR at I-9 & nn.23 & 24; Hearing Transcript (public session) at 59; Posthearing Brief of NKK and MC Tubular at 2.

[24] PR at II-9 & n.25; CR at I-10 & n.25.

[25] PR at II-8; CR at I-8. The record indicates that certain processors of OCTG products can use the same production facilities and processes to finish drill pipe as well as other OCTG products. See, e.g., Petitioners' Prehearing Brief at 7.

employees (e.g., line pipe, standard pipe, specialty tubing, structural tubing, piling pipe, conduit hollows, and redraw hollows).[26]

Petitioners concede that the price of finished drill pipe is generally higher than the price of tubing and casing because of higher finishing costs. Data collected by the Commission indicate that prices for unfinished drill pipe were generally in the same range as prices for other unfinished OCTG, but prices for finished drill pipe were significantly higher than prices for other finished OCTG.[27]

On balance, we find that the differences in physical characteristics of drill pipe and other OCTG, the lack of interchangeability of drill pipe for casing or tubing, the different customer and producer perceptions, and the difference in prices, support finding two like products.

C. Whether Heavy-Weight Drill Pipe Should Be a Separate Like Product

Respondent Mitsui Tubular Products, Inc., argues that heavy-weight drill pipe ("HWDP") is a separate like product from other types of drill pipe, i.e., standard-weight drill pipe ("SWDP").[28] We disagree.

We find that there are substantial similarities between HWDP and SWDP. HWDP has the same general characteristics as SWDP, with the primary distinction being in the thickness of the walls.[29] Both HWDP and SWDP are welded to tool joints, which we find to be one of the essential distinguishing characteristics of drill pipe generally. Furthermore, HWDP is used for the same purpose as SWDP, namely, as part of the drill string used to rotate the drill bit.[30] Indeed, HWDP is used in the same drill string as SWDP. HWDP is used in extreme drilling conditions, such as directional drilling or deep well drilling, just as large diameter casing is used in deeper wells as part of a continuum of casing of different sizes.[31] HWDP and SWDP are sold through the same channels of distribution and ***.[32]

Based on the foregoing, we find that HWDP is not a separate like product from other types of drill pipe.

II. DOMESTIC INDUSTRIES

A. In General

Section 771(4)(A) of the Act defines the relevant industry as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product . . . ."[33] In

---

[26] PR at II-20; CR at I-25. Notably, none of the U.S. mills manufactures the tool joint or welds the tool joint to the unfinished drill pipe. PR at II-8 n.18; CR at I-8 n.18. We also note that ***, a major U.S. producer of unfinished drill pipe, does not produce other OCTG. This producer's share of U.S. drill pipe production was *** percent in 1994, and its share of total U.S. OCTG production was *** percent in 1994. PR at II-8 n.20; CR at I-8 n.20; Table 3, PR at II-17; CR at I-19.

[27] PR at II-10; CR at I-12.

[28] Posthearing Statement of Mitsui at 1 and 4.

[29] PR at II-7; CR at I-7. HWDP also has a raised center. PR at II-11 n.30; CR at I-13 n.30.

[30] PR at II-7; CR at I-7.

[31] PR at II-6-7 n.12; CR at I-6 n.12.

[32] PR at II-8 n.20 and II-9 n.25; CR at I-8 n.20 and I-10 n.25.

[33] 19 U.S.C. § 1677(4)(A).

defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[34]

In light of our like product determination, we find that there are two domestic industries consisting of (1) the domestic producers of OCTG excluding drill pipe (i.e., producers of casing and tubing) and (2) the domestic producers of drill pipe. In defining each industry, we considered whether any finishers of the different types of OCTG should be included within the respective industry definitions, and if so, which types of finishers.

B. Whether Finishers Are Members of the Domestic Industries

In the United States, finishing operations on all types of OCTG including drill pipe are performed by U.S. mills, by firms that perform finishing activities under contract for a set fee (toll producers),[35] and by finishers who purchase unfinished OCTG and resell the finished product. The majority of all non-mill finishers are toll producers, with the exception of drill pipe finishers.[36]

The Commission considers firms to be domestic producers based on their production-related activity in the United States.[37] Petitioners argue that the finishers do not perform sufficient production-related activities to qualify as part of the domestic industries.[38] Respondents, on the other hand, argue that the Commission should include finishers in the U.S. industries.[39]

According to the data collected in these final investigations, there is a very wide range of finishing operations that can be performed depending on the form of product being finished (i.e., casing and tubing, or drill pipe);[40] the product specification; the weight per

---

[34] See, e.g., United States Steel Group v. United States, 873 F. Supp. 673 (Ct. Int'l Trade 1994), aff'd Certain Flat-Rolled Carbon Steel Products from Argentina et al., Invs. Nos. 701-TA-319-332, 334, 336-342, 344, and 347-353 & 731-TA-573-579, 581-592, 594-597, 599-609, and 612-619 (Final), USITC Pub. 2664 (Aug. 1993), at 17; Aramid Fiber Formed of Para-Phenylene Terephthalamide from the Netherlands, Inv. No. 731-TA-652 (Final), USITC Pub. 2783 (June 1994), at I-8 - I-9, aff'd, Aramide Maatschappij V.O.F. v. United States, Slip Op. 95-113 (Ct. of Int'l Trade June 19, 1995).

[35] The Commission has previously described toll arrangements as contracts under which a customer delivers raw material to a toll producer, who then manufactures the product, and returns it to the customer for a fee. Typically, a toll producer never takes title to the raw or finished material. The Commission has generally considered toll producers to be members of the domestic industry. See, e.g., Ferrovanadium and Nitrided Vanadium from Russia, Inv. No. 731-TA-702 (Final), USITC Pub. 2904 (June 1995).

[36] PR at II-17-18; CR at I-20-22.

[37] The Commission examines six specific factors in this regard: (1) the extent and source of a firm's capital investment; (2) the technical expertise involved in U.S. production activity; (3) the value added to the product in the United States; (4) employment levels; (5) the quantities and types of parts sourced in the United States; and (6) any other costs and activities in the United States leading to production of the like product, including where production decisions are made. See, e.g., Ferrovanadium and Nitrided Vanadium from Russia, Inv. No. 731-TA-702 (Final), USITC Pub. 2904 (June 1995).

[38] Petitioners' Posthearing Brief, Vol. II, at 53-56.

[39] See generally Respondents' Joint Prehearing Brief at 63-68.

[40] In general, casing is heat treated and then threaded and coupled; tubing is first upset, and then heat treated and threaded and coupled; drill pipe is usually upset and heat treated and a tool joint is then welded onto the drill pipe. PR at II-8 and II-11-12; CR at I-8 and I-13.

piece of the unfinished product;[41] and any other requirements of the end user.[42] Finishers can be divided into two groups: (1) processors and (2) threaders. Processors may perform a range of finishing operations, including heat treatment, machining, and threading and coupling.[43] Processors finish OCTG excluding drill pipe as well as drill pipe.[44] Threaders, however, only perform threading and/or coupling operations, and only for casing and tubing.[45]

We find that processors should be included in both the domestic casing and tubing industry and in the domestic drill pipe industry, but those firms that only perform basic threading and coupling operations should not.[46] [47] Processors generally operate facilities capable of heat treating full lengths of pipe and are able to conduct all required tests and inspections.[48] The heat treatment and other operations performed by processors actually alters the pipe's microstructure or mechanical properties, and allows the processors to determine the final grade of the pipe.[49] In addition, in the case of drill pipe, friction welding -- the process of welding the tool joint to the body of the pipe -- requires dedicated equipment and technical expertise which further precludes threaders from performing the operation.[50] In order to perform these operations, processors, especially drill pipe processors, employ significant levels of expertise, including metallurgical and engineering skills.[51]

---

[41] The lower the weight per piece of unfinished OCTG, the higher the finishing value added will be on a per-ton basis. PR at II-12; CR at I-13.

[42] PR at II-12; CR at I-13.

[43] PR at II-11 n.27; CR at I-12 n.27.

[44] PR at II-17; CR at I-20.

[45] Drill pipe does not undergo threading or coupling.

[46] We note, however, that inclusion of threaders in the casing and tubing industry data would not have significantly altered that industry's performance indicators. Thus, our determinations would not change if threaders were included in the industry data.

[47] Chairman Watson and Commissioner Crawford find that both processors and threaders should be included within the domestic casing and tubing industry and thus do not join in the remainder of this section. The value added by non-toll processors as well as threaders was significant, averaging 32.2 percent and 21.8 percent, respectively. PR at II-12; CR at I-14. Capital investment of threaders, while lower than those for processors, was still significant at $*** to $***. PR at II-18; CR at I-22. In addition, employment levels of threaders, while smaller than those for processors, were still significant, ranging from 385 workers in 1992 to 399 workers in 1994. PR at II-18; CR at I-23.

[48] Specification for Drill Pipe, API Specification 5D, 3rd Ed., Aug. 1, 1992 at 23. We note that there are two firms that we have included in the processors category which do not heat treat. These firms, however, finish heavy-weight drill pipe which requires extensive machining. PR at II-11 n.27 and II-17 n.41; CR at I-12 n.27 and I-20 n.41.

[49] See, e.g., PR at II-11 n.30; CR at I-13 n.30. Basic threaders, on the other hand, simply operate threading machines but are not allowed to change or alter the markings on the pipe body, or certify that the pipe body complies with any API specification. See API Specification for Casing and Tubing, 4th Ed., Nov. 1992.

[50] PR at II-17-18; CR at I-20-23.

[51] Petitioners argue, and the record supports the fact, that finishers that are involved in simple threading of OCTG and adding couplings generally require little expertise. Petitioners' Posthearing Brief, Vol. II, at 55; PR at II-18; CR at I-22.

Processors of casing, tubing, and drill pipe reported levels of capital investment within the range of domestic mills.[52] The capital investment of threaders was generally lower.[53] The primary source of all finishers' investment capital was bank financing.[54]

Consideration of the value added by casing and tubing finishers is less illuminating than in other antidumping and countervailing duty investigations because value added cannot be calculated for toll producers, and the majority of finishers for casing and tubing are toll producers.[55] Value added, however, is more probative in the case of drill pipe processors since none of the drill pipe processors produces on a toll basis. The value added to the unfinished OCTG (casing, tubing, and drill pipe) and other raw materials ranges widely depending on the type and level of finishing required. The average value added by processors of casing and tubing was approximately 32.2 percent (excluding SG&A).[56] The average value added to unfinished drill pipe (and other raw materials) was higher.[57]

During the period of investigation, finishers reported aggregate employment levels ranging from 1,271 in 1992 to a high of 1,589 in 1994. Processors represented over two-thirds of this total.[58] During this same period, U.S. mills employed 2,286 in 1992, 3,143 in 1993, and 2,991 in 1994.[59] Employment by processors represented over one-fourth of total U.S. industry employment.[60] U.S. drill pipe processors' employment levels exceeded employment of U.S. drill pipe mills.[61]

Because processors invest a relatively substantial amount of capital in their finishing operations (within the range of investment of some U.S. mills), exercise substantial technical

---

[52] Processors of casing and tubing reported capital investment ranging from $*** million to $*** million; drill pipe processors reported capital investment ranging from $*** million to $*** million. The record indicates that capital investment of individual U.S. mills ranged from $*** million to $*** million (based on the book value of fixed assets). U.S. Producers' Questionnaire Responses. Thus, there is some overlap in investment levels of individual processors and U.S. mills, at least at the low end.

[53] Threaders' capital investment ranged from $*** million to $*** million. PR at II-18; CR at I-22 & n.43.

[54] PR at II-18; CR at I-22.

[55] PR at II-18; CR at I-20. Value added is calculated as a ratio of the conversion costs (labor and factory overhead) over total cost of goods sold. Toll threaders and toll processors do not purchase unfinished OCTG for their tolling operations. Thus, the calculations of value added presented in the report are based on the costs of non-toll finishers. PR at II-12 & nn.31 & 32; CR at I-14 & nn.31 & 32.

[56] If SG&A are included, the average value added is higher, 36.3 percent. PR at II-12; CR at I-14. Petitioners state that the value added from simple threading and coupling is small compared to the value created in producing OCTG. Petitioners' Posthearing Brief, Vol. II, at 55. Our data indicate that threaders' average value added was lower than processors (21.8 excluding SG&A costs and 29.2 percent including SG&A costs), but again we note that these figures may be less illuminating since they are based on the operations of those threaders that purchased, rather than toll-produced, unfinished OCTG. See PR at II-12; CR at I-14.

[57] The average value added to unfinished drill pipe (and other raw materials) was *** percent excluding SG&A and *** percent including SG&A. Questionnaire responses.

[58] PR at II-18; CR at I-23.

[59] Table 7, PR at II-23; CR at I-28.

[60] PR at II-18; CR at I-23; Table A-4, PR at A-7; CR at A-13.

[61] Drill pipe processors employed between *** to *** production and related workers between 1992 to interim 1995; compared with U.S. drill pipe mills which only employed *** to *** production and related workers. Questionnaire responses.

expertise, represent a significant level of overall employment of the industry, and add substantial value to the end product, we include their operations in our consideration of the domestic industries.[62] We were particularly persuaded to include drill pipe processors in the domestic drill pipe industry because of the significant operations drill pipe processors perform.[63] We note that none of the U.S. mills are capable of adding tool joints to drill pipe; therefore, this significant finishing function is performed solely by drill pipe processors.[64] [65] [66]

---

[62] We note that finishers of OCTG acquire couplings, thread protectors, and tool joints in the United States, in addition to the unfinished OCTG. PR at II-19; CR at I-23.

[63] PR at II-8 and II-11-12; CR at I-8 and I-13. As discussed earlier, a tool joint is a high-value, precision-engineered tool and requires more extensive processing than required for casing and tubing.

[64] PR at II-8; CR at I-8.

[65] The related parties provision, 19 U.S.C. § 1677(4)(B), allows the Commission to exclude a domestic producer from the domestic industry for the purpose of making its injury determination if it is either related to the exporters or importers of LTFV or subsidized merchandise, or is itself an importer of that subject merchandise. None of the producers or processors we included in the domestic industries imported subject imports or was related to exporters or importers of subject merchandise. Petitioners raised a novel argument by claiming that those processors that primarily toll finish subject imports should be excluded as related parties. Petitioners' Posthearing Brief, Vol. II, at 52. We note that the related party provision has never been extended to include toll producers of subject imports who are not otherwise related to exporters or importers or import subject merchandise directly. The record indicates that only one processor, ***, processed significant quantities of subject imports which it purchased from importers. Approximately *** percent of the OCTG toll produced by *** was comprised of OCTG imports. PR at II-18; CR at I-21.

We do not find it necessary to determine whether toll producers who toll large volumes of imports are subject to the related party provision for purposes of these investigations. *** comprised only *** percent of all processing and only *** percent of total industry production of casing and tubing. Thus, even if we had found *** to be a related party, we would not find that appropriate circumstances exist to exclude it because of the small share of production *** represents and the fact that inclusion or exclusion of *** data would not skew the overall industry results.

[66] In these investigations, Commissioner Bragg joins her colleagues in including processors in the domestic industry based on their significant production-related activities, particularly in the case of drill pipe. She notes, however, that the processors in these investigations are in a somewhat different position than the domestic producers of OCTG as regards their vulnerability to unfair import competition.

The processors are either toll processors, that charge their customers a fee for performing the finishing work, or are independent processors who purchase unfinished OCTG and perform the finishing operations, then sell the finished product. In either case, the value they add, and consequently the profits they earn, are insulated from the effect of subsidized or dumped imports in a way that the operations of the domestic mills are not.

Commissioner Bragg does not believe that the statute or the record in these investigations supports excluding the processors from the domestic industry. She does believe that it is appropriate to take into account the greater vulnerability of the domestic mills to the effects of dumped or subsidized imports in determining whether the domestic industry as a whole is experiencing material injury by reason of subject imports. Thus, while she has looked at the data for the entire domestic industry, she has placed particular emphasis on the condition of domestic mills in finding that subject imports have materially injured the OCTG industries. She notes, however, that this emphasis did not alter the outcome of her decision with respect to either of the two domestic industries. Finally, her decision to include processors in the domestic industry producing OCTG should not be construed as an indication that in any future investigations she will automatically determine that processors are to be included in the definition of the domestic industry. An analysis of the facts specific to each investigation will govern their treatment of this issue.

We decline to include threaders in the casing and tubing industry because of their more limited levels of capital investment, lower levels of expertise, and lower levels of employment.

III. CONDITION OF THE DOMESTIC INDUSTRIES

A. In General

In assessing whether a domestic industry is materially injured by reason of LTFV or subsidized imports, the Commission considers all relevant economic factors that bear on the state of the industry in the United States.[67] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive.

We are directed by the statute to consider all relevant factors "within the context of the business cycle and conditions of competition" that are distinctive to the OCTG industries.[68] The parties have argued as to whether there is a business cycle that applies to the OCTG industries and disagree as to whether the nature of the business cycle warrants an analysis of the OCTG industries over a four-year period (1991-94), rather than the more typical three-year period (1992-94). There is no evidence indicating that the OCTG business cycle is different for drill pipe than for casing and tubing. Thus, our discussion of the business cycle applies to both OCTG industries.

Respondents urged us to consider data for 1991 rather than 1992 as the starting point in our analysis because 1992 was a low point in the cycle for the overall OCTG "industry."[69] Petitioners dispute that 1992 was the low point in any cycle for the overall OCTG "industry," and claim that including 1991 data would itself be distortive because the Gulf War disrupted demand.[70]

Arguably both 1991 and 1992 could be considered distortive. We find that reliance on the data available for 1991 is problematic because those data, which were collected in the preliminary investigations, are not reliably segregated in a manner that conforms with our finding of two industries (OCTG excluding drill pipe and drill pipe) as are the later data; nor do the 1991 data include processors, which we have considered part of both industries in these final investigations. We find inclusion of the 1991 data is of reduced utility to our

---

[67] 19 U.S.C. § 1677(7)(C)(iii).

[68] 19 U.S.C. § 1677(7)(C)(iii).

[69] As discussed above, we do not find a single OCTG "industry." In respondents' view, considering 1992 as a starting point in our analysis would be misleading because 1992 was the "trough" in the OCTG business cycle. Thus, beginning an analysis of the industry in 1992 shows imports rising significantly over the period of investigation when, in actuality, imports have been steadily declining since 1984 and the spike in imports in 1993-94 was an unusual occurrence. They provide the Commission with import trends beginning over ten years ago to support their claim that there has been a steady and significant decline in imports since that period. They claim that the spike in imports in 1993-94 was caused by cold temperatures which increased the demand for natural gas. Respondents' Joint Posthearing Brief at 2.

[70] Petitioners claim that there were other lows in the industry in 1986 and 1989. In their view, the OCTG industry's demand has been relatively stable since 1986 with some interim cyclicity caused by trends in drilling activity. Petitioners further claim that while oil drilling has declined, there has been an upward trend in natural gas drilling. Petitioners' Posthearing Brief, Vol. I, at 4-5, 7 and 8.

determinations since such data do not correspond to the later data.[71] For these reasons, our discussion focuses primarily on the data for 1992 to 1994.[72] [73]

We note certain conditions of competition relevant to our analysis of both the casing and tubing and the drill pipe industries. First, demand for all subject OCTG depends on the level of oil and gas drilling, which in turn depends on such factors as the price of oil and gas and climatic conditions.[74] During the period of investigation, natural gas prices increased due to two extremely cold winters on the East Coast, which in turn caused an increase in drilling activity.[75]

We also take into account the fact that there are many types of OCTG products produced to many different grades and API specifications. The basic grades sold are J-55, K-55, L-80, N-80, and P-110, which are offered both by U.S. producers and importers of subject OCTG.[76] We also note that many of these grades are available in both welded and seamless forms. Improvements in the technology used to produce welded OCTG have reportedly resulted in increased competition between the seamless and welded forms of OCTG.[77]

Third, the parties have presented evidence pertaining to the distribution policies of U.S. mills.[78] Respondents argue that U.S. producers restrict the distribution of their OCTG products to certain preferred distributors.[79] The record demonstrates that most distributors, however, purchase both domestic OCTG and subject imports,[80] and most U.S. mills sell to a variety of different suppliers with very few exclusive contracts with distributors.[81]

---

[71] In addition, the 1991 data do not reflect the operations of a few domestic mills which provided no or insufficient information in the preliminary investigations. These mills accounted for approximately *** percent of domestic production in 1994.

[72] We note that it is within our discretion to determine which period of data is most reliable. Wieland Werke, AG v. United States, 718 F. Supp. 50, 55 (Ct. Int'l Trade 1989).

[73] Vice Chairman Nuzum notes that her analysis focused primarily on 1993 and 1994 data, and that she considered but placed less weight on both 1991 and 1992 data. She further notes that a determination of whether an industry is experiencing present material injury necessarily requires careful scrutiny of more recent representative data.

[74] PR at II-14; CR at I-14.

[75] PR at II-14; CR at I-14-16.

[76] See Table 21, PR at II-37; CR at I-51; Petitioners' Posthearing Brief at 15.

[77] Respondents' Joint Prehearing Brief at 15; Respondents' Joint Posthearing Brief at 6.

[78] U.S. mills consist of both integrated producers of the like products and minimills. Respondents' Joint Prehearing Brief at 4-6. Chairman Watson and Commissioner Crawford note that there is evidence on the record indicating that domestic minimills are more cost-efficient producers of OCTG than the domestic integrated producers.

[79] Respondents' Joint Posthearing Brief at 21-22.

[80] See Memorandum INV-S-102.

[81] The U.S. mills reported that the most common criteria for selling to a distributor were credit-worthiness and whether a particular distributor will expand the customer base of the mill. PR at II-10; CR at I-11. Petitioners state that U.S. producers refuse to sell to certain distributors because they fail to meet their criteria. Petitioners' Posthearing Brief at 14-15.

B. The Domestic Industry Producing OCTG Excluding Drill Pipe[82]

The period of investigation was characterized by generally increasing consumption of OCTG excluding drill pipe. U.S. apparent consumption by quantity rose sharply from 1992 to 1993, and then declined slightly in 1994. The period January through March 1994 ("interim 1994") also showed higher consumption than did the period January through March 1995 ("interim 1995").[83] The value of apparent consumption increased at an even greater rate from 1992 to 1993, and then also decreased slightly in 1994. This figure also increased from interim 1994 to interim 1995.[84]

The quantity of domestic producers' U.S. shipments rose from 1992 to 1993, but at a lesser rate than consumption. U.S. shipments subsequently fell in 1994 at a rate greater than the decline in consumption. Only in the interim period comparison did U.S. shipments rise faster than consumption.[85] The value of such shipments followed a similar pattern.[86]

U.S. producers' share of the domestic market by quantity fell from 1992 to 1994, but was higher in interim 1995 compared with interim 1994.[87] By value, the U.S. producers' market share followed much the same trend, although there was a very slight increase between 1993 and 1994.[88]

Production closely tracked shipments.[89] Average-of-period capacity increased throughout the period examined.[90] Average-of-period capacity utilization was low and fluctuated between years, but rose overall from 1992 to 1994. Between interim periods, capacity utilization also increased.[91]

---

[82] Chairman Watson and Commissioner Crawford take into account threaders in their consideration of the condition of the domestic casing and tubing industry.

[83] Apparent consumption by quantity increased from *** short tons in 1992 to *** short tons in 1993, and then decreased to *** short tons in 1994. It rose from *** short tons in interim 1994 to *** short tons in interim 1995. Table A-3, PR at II-A-7; CR at A-10.

[84] The value of apparent consumption increased from $*** in 1992 to $*** in 1993, but declined to $*** in 1994. The value of apparent consumption was *** in interim 1994 and *** in interim 1995. Table A-3, PR at II-A-7; CR at A-10.

[85] The quantity of domestic producers' U.S. shipments rose from *** tons in 1992 to *** tons in 1993, then fell to *** tons in 1994. Between interim periods these shipments rose from *** tons in interim 1994 to *** tons in interim 1995. Table A-3, PR at A-7; CR at A-11.

[86] The value of U.S. shipments was *** in 1992, *** in 1993, and *** in 1994. The value of U.S. shipments was *** in interim 1994 and *** in interim 1995. Table A-3, PR at A-7; CR at A-11.

[87] The U.S. producers' share of the domestic market by quantity was *** percent in 1992, *** percent in 1993, *** percent in 1994, *** percent in interim 1994, and *** percent in interim 1995. Table A-3, PR at A-7; CR at A-10.

[88] The U.S. producers' market share by value was *** percent in 1992, *** percent in 1993, *** percent in 1994, *** percent in interim 1994, and *** percent in interim 1995. Table A-3, PR at A-7; CR at A-10.

[89] Production was *** short tons in 1992, *** short tons in 1993, *** short tons in 1994, *** short tons in interim 1994, and *** short tons in interim 1995. Table A-3, PR at A-7; CR at A-11.

[90] Average capacity increased from *** in 1992 to *** in 1994 or by ***, and also increased from *** short tons in interim 1994 to *** short tons in interim 1995. Table A-3, PR at A-7; CR at A-11.

[91] Average capacity utilization was *** percent in 1992, *** percent in 1993, *** percent in 1994, *** percent in interim 1994, and *** percent in interim 1995. Table A-3, PR at A-7; CR at A-11.

The number of production workers increased from 2,932 in 1992 to 4,002 in 1993, then decreased to 3,802 in 1994. The number of these workers increased from 3,628 in interim 1994 to 3,869 in interim 1995.[92] Hours worked increased from 6.5 million in 1992 to 8.8 million in 1993, and then decreased to 8.2 million in 1994; hours worked increased from 1.9 million in interim 1994 to 2.1 million in interim 1995.[93] Wages paid totaled $91.1 million in 1992, increased to $129.2 million in 1993, and decreased to $121.3 million in 1994. In interim 1994, $26.9 million were paid in wages, which increased to $33.0 million in interim 1995.[94]

Despite increases in most volume indicators, the financial condition of the industry reflects the inability of the domestic industry to generate operating profits throughout the period 1992 through interim 1995. Net sales increased from $700.8 million in 1992 to $932.6 million in 1993, then decreased to $919.7 million in 1994. Net sales increased from $194.6 million in interim 1994 to $245.7 million in interim 1995.[95] The domestic industry experienced gross losses during most the period of investigation. In 1992 the industry experienced a $31.5 million gross loss, followed by a $2.0 million gross profit in 1993, only to suffer a $3.9 million gross loss in 1994.[96] The industry experienced a gross loss of $5.6 million in interim 1994, but realized a gross profit of $5.1 million in interim 1995.[97]

The industry suffered an operating loss of $71.5 million in 1992, $38.9 million in 1993, and $40.9 million in 1994.[98] In interim 1994, the operating loss was $14.7 million compared with a loss of $5.4 million in interim 1995.[99] The operating loss as a ratio to net sales decreased sharply from (10.2) percent in 1992 to (4.2) in 1993, but then increased to (4.4) percent in 1994. In interim 1995 this ratio was (2.2) percent compared to (7.6) percent in interim 1994.[100] [101]

Selling, general, and administrative expenses remained relatively steady from 1992 to 1993, rising from $40.1 million in 1992 to $41.0 million in 1993, before falling to $37.0 million in 1994. In interim 1994, these expenses totaled $9.1 million compared with $10.5 million in interim 1995.[102] Capital expenditures generally declined during the period of investigation, despite a modest increase between 1993 and 1994. Cost of goods sold as a ratio to net sales declined from 104.5 percent in 1992 to 99.8 percent in 1993, and then

---

[92] Table A-8, PR at A-11; CR at A-16.

[93] Table A-8, PR at A-11; CR at A-16.

[94] Table A-8, PR at A-11; CR at A-16.

[95] Table A-8, PR at A-11; CR at A-16. To avoid double counting, the quantities of net sales include only those for U.S. mills producing OCTG other than drill pipe and not processors. Therefore unit values are not included. Id.

[96] Commissioner Bragg notes that the mill segment of this industry realized gross losses in 1992 ($***), in 1993 ($***), and in 1994 ($***). Table A-3, PR at A-7; CR at A-12.

[97] Table A-8, PR at A-11; CR at A-16.

[98] Commissioner Bragg notes that the mill segment of this industry experienced even greater operating income losses in 1993 ($***) and in 1994 ($***). Table A-3, PR at A-7; CR at A-12.

[99] Table A-8, PR at A-11; CR at A-16.

[100] Table A-8, PR at A-11; CR at A-16.

[101] Even if we were to include the more profitable threaders in the casing and tubing industry data, the industry would still be characterized by declining profits between 1993 and 1994, and staggering operating losses throughout the period 1992 to 1994 with a subsequent improvement in the industry's condition in interim 1995. See Table A-9, PR at A-12, CR at I-17.

[102] Table A-8, PR at A-11; CR at A-16.

increased to 100.4 percent in 1994. In interim 1995, this ratio was 97.9 percent compared to 102.9 percent in interim 1994.[103] [104]

C. The Domestic Drill Pipe Industry

U.S. apparent consumption by quantity for drill pipe increased significantly from 1992 to 1993, then decreased somewhat in 1994. Apparent consumption by quantity was lower in interim 1995 compared with interim 1994.[105] The value of apparent consumption followed similar trends.[106]

The quantity of domestic producers' U.S. shipments increased significantly from 1992 to 1993, then fell in 1994, but remained above 1992 levels. U.S. shipments were lower in interim 1995 compared with interim 1994.[107] The value of such shipments followed a similar, though less pronounced, trend.[108]

U.S. producers' share of apparent consumption by quantity fell by nearly a third from 1992 to 1994, but increased slightly between interim periods.[109] By value, U.S. producers' market share followed a similar trend.[110]

Production increased substantially from 1992 to 1993, then fell in 1994 to slightly above 1992 levels. Production was lower in interim 1995 compared with interim 1994.[111] Average-of-period capacity increased overall from 1992 to 1994, and was higher in interim 1995 compared with interim 1994.[112] Capacity utilization was low and fluctuated between

---

[103] Table A-8, PR at A-11; CR at A-16. We note that the U.S. producers did not break out the data between OCTG excluding drill pipe and drill pipe for expenditures on research and development.

[104] Based on its declining share of domestic consumption, low capacity utilization rates, and substantial and consistent operating losses, Commissioner Rohr and Commissioner Newquist find that the domestic industry producing casing and tubing is currently experiencing material injury.

[105] U.S. apparent consumption by quantity for drill pipe was *** short tons in 1992, *** short tons in 1993, and *** short tons in 1994. Apparent consumption by quantity was *** short tons in interim 1994 and *** short tons in interim 1995. Table A-2, PR at A-7; CR at A-7.

[106] The value of apparent consumption was $*** million in 1992, $*** million in 1993, and $*** million in 1994. This figure was $*** million in interim 1994 compared to $*** million in interim 1995. Table A-2, PR at A-7; CR at A-7.

[107] The quantity of domestic producers' U.S. shipments was *** short tons in 1992, *** short tons in 1993, and *** short tons in 1994. U.S. shipments were *** short tons in interim 1994 and *** short tons in interim 1995. Table A-2, PR at A-7; CR at A-8.

[108] The value of U.S. shipments was $*** in 1992, $*** in 1993, $*** in 1994, $*** in interim 1994, and $*** in interim 1995. Table A-2, PR at A-7; CR at A-8.

[109] U.S. producers' share of apparent consumption by quantity was *** percent in 1992, *** percent in 1993, *** percent in 1994, *** percent in interim 1994, and *** percent in interim 1995. Table A-2, PR at A-7; CR at A-7.

[110] U.S. producers' market share by value was *** percent in 1992, *** percent in 1993, *** percent in 1994, *** percent in interim 1994, and *** percent in interim 1995. Table A-2, PR at A-7; CR at A-7.

[111] Production was *** short tons in 1992, *** short tons in 1993, and *** short tons in 1994. Production was *** short tons in interim 1994 and *** short tons in interim 1995. Table A-2, PR at A-7; CR at A-8.

[112] Average-of-period capacity was *** short tons in 1992, *** short tons in 1994, and was *** short tons in interim 1994 compared to *** short tons in interim 1995. Table A-2, PR at A-7; CR at A-8.

years, but declined overall from 1992 to 1994 and also declined significantly between interim periods.[113]

The number of production workers increased from 240 in 1992 to 302 in 1993 to 379 in 1994. The number of production workers increased still further between interim periods from 391 in interim 1994 to 405 in interim 1995.[114] [115] Hours worked increased steadily from 683,000 in 1992 to 925,000 in 1994, and from 258,000 in interim 1994 to 263,000 in interim 1995.[116] [117] Wages paid totaled $6.3 million in 1992, $7.4 million in 1993, and $9.0 million in 1994. In interim 1994, $2.4 million was paid in wages, which increased to $2.6 million in interim 1995.[118]

The value of net sales increased from $64.7 million in 1992 to $70.5 million in 1993 to $80.6 million in 1994. This figure increased from $23.1 million in interim 1994 to $23.5 million in interim 1995.[119] [120] Cost of goods sold as a ratio to net sales increased from 85.9 percent in 1992 to 87.3 percent in 1993, and then decreased to 84.5 percent in 1994. In interim 1995, this ratio was 80.6 percent compared to 79.4 percent in interim 1994. Capital expenditures declined significantly throughout the period of investigation.[121] Gross profits fluctuated between 1992 and 1994, but increased overall. They decreased from $9.1 million in 1992 to $9.0 million in 1993, and then increased to $12.5 million in 1994. Gross profits declined slightly from $4.8 million in interim 1994 to $4.6 million in interim 1995.[122] [123] Operating income fell from $3.5 million in 1992 to $2.5 million in 1993, then rose to $5.6 million in 1994; it rose from $2.4 million in interim 1994 to $2.8 million in interim 1995. The operating income as a ratio to net sales decreased from 5.4 percent in 1992 to 3.5 percent in 1993, but then increased to 6.9 percent in 1994. In interim 1995 this ratio was 11.8 percent compared to 10.5 percent in interim 1994.[124] [125]

---

[113] Capacity utilization was *** percent in 1992, *** percent in 1993, *** percent in 1994, *** percent in interim 1994, and *** percent in interim 1995. Table A-2, PR at A-7; CR at A-8.

[114] Table A-7, PR at A-10; CR at A-15.

[115] Commissioner Bragg notes the significant difference in the number of production workers employed by the domestic mills producing drill pipe: ***. Table A-2, PR at A-7; CR at A-8.

[116] Table A-7, PR at A-10; CR at A-15.

[117] Commissioner Bragg notes the significant difference in the number of hours worked by workers employed by the domestic mills producing drill pipe: ***. Table A-2, PR at A-7; CR at A-8.

[118] Table A-7, PR at A-10; CR at A-15.

[119] Table A-7, PR at A-10; CR at A-15.

[120] Commissioner Bragg notes the value of net sales for the mill segment of the drill pipe industry was $*** in 1992, $*** in 1993, $*** in 1994, $*** in interim 1994, and $*** in interim 1995. Table A-2, PR at A-7; CR at A-8.

[121] Table A-7, PR at A-10; CR at A-15. As with the OCTG industry excluding drill pipe, to avoid double counting, the unit value of net sales were not computed and research and development expenditures are not reported because the U.S. producers did not break them out corresponding to the drill pipe and OCTG excluding drill pipe industries.

[122] Table A-7, PR at A-10; CR at A-15.

[123] Commissioner Bragg notes that the mill segment of the drill pipe industry experienced an operating *** in 1992 of $***, an operating *** of $*** in 1993 with a subsequent *** in operating *** in 1994. Table A-2, PR at A-7; CR at A-8.

[124] Table A-7, PR at A-10; CR at A-15.

[125] Based on its declining share of domestic consumption, low capacity utilization rates, and

(continued...)

IV. SUBJECT IMPORTS OF OCTG EXCLUDING DRILL PIPE

A. Cumulation

In determining whether there is material injury by reason of LTFV or subsidized imports, the Commission is required to assess cumulatively the volume and price effects of imports from two or more countries of articles subject to investigation if such imports compete with one another and with the domestic like product in the United States market.[126] Cumulation is not required, however, when imports from a subject country are negligible and have no discernible adverse impact on the domestic industry.[127]

For imports of casing and tubing, we have determined to cumulate imports from Argentina, Italy, Korea, Japan, and Mexico.[128] In addition, we find imports of casing and tubing from Austria and Spain are negligible and therefore do not cumulate such imports.[129]

1. Reasonable Overlap of Competition

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors, including:

(1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
(2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product;
(3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and
(4) whether the imports are simultaneously present in the market.[130]

While no single factor is determinative, and the list of factors is not exclusive, these factors provide the Commission with a framework for determining whether the imports

---

[125] (...continued)
fluctuating and inconsistent financial performance, Commissioner Rohr and Commissioner Newquist find that the domestic industry producing drill pipe is vulnerable to the continuing adverse effects of unfair imports of drill pipe.

[126] 19 U.S.C. § 1677(7)(C)(iv); Chaparral Steel Co. v. United States, 901 F.2d 1097, 1105 (Fed. Cir. 1990).

[127] 19 U.S.C. § 1677(7)(C)(v).

[128] For the reasons given below, Commissioner Crawford does not find sufficient substitutability between subject imports of casing and tubing from Japan and those from Argentina, Korea, and Mexico to indicate a reasonable overlap of competition.

[129] Commissioner Newquist and Commissioner Bragg do not find imports of casing and tubing from Austria and Spain to be negligible and therefore cumulate imports of casing and tubing from all subject countries. See Separate and Dissenting Views of Commissioner Newquist and Separate and Dissenting Views of Commissioner Bragg.

[130] See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

compete with each other and with the domestic like product.[131] Only a "reasonable overlap" of competition is required.[132] [133]

We determine that there is a reasonable overlap of competition of imports of OCTG excluding drill pipe (casing and tubing) from Argentina, Italy, Japan, Korea, and Mexico.[134] In general, respondents argued that imports from Japan and Korea are not fungible with other subject imports or the domestic like product. There was generally no dispute that subject imports of casing and tubing from Argentina and Mexico competed with other subject imports and the domestic like product.[135]

Subject imports of casing and tubing and domestic casing and tubing are generally sold in the same geographic markets. The vast majority of imports from all subject countries entered into customs districts in Texas and were sold in the Gulf region, where sales of domestic OCTG were also concentrated.[136] Even though Japanese imports were sold in regions where there were no sales of other subject imports, most notably the Alaskan market, there were nevertheless significant amounts of Japanese imports sold in the same regions as all other subject imports and the domestic products.[137]

---

[131] See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[132] See, e.g., United States Steel Group v. United States, 873 F. Supp. 673 (Ct. Int'l Trade 1994).

[133] Commissioner Crawford finds that substitutability, not fungibility, is a more accurate reflection of the statute. Commissioner Crawford gives the benefit of the doubt to petitioners and finds there is sufficient substitutability to conclude there is a reasonable overlap of competition between all subject imports and the domestic like product and between subject imports from all countries, except Japan, with each other. For the reasons given below, she does not find sufficient substitutability between subject imports of casing and tubing from Japan and those from Argentina, Korea, and Mexico to indicate a reasonable overlap of competition. As discussed in note 156, infra, she did not cumulate subject imports from Austria, Italy, and Spain as she finds them to be negligible.

Imports of casing and tubing from Japan are primarily high-end products, nearly half of which are sold directly to end users, while those from Argentina, Korea, and Mexico are lower end products sold almost exclusively through distributors. See CR at I-10; PR at II-9. Moreover, nearly 30 percent of Japanese imports of all OCTG enter in Alaska while less than one percent of other subject imports were sold into Alaska. See CR at I-50 and F-14, Table F-2; PR at II-37 and F-4. There were few or no shipments of other subject imports in those product categories where Japanese imports are the most prevalent -- the larger diameter and above-API grades; over 50 percent of Japanese imports are above API quality while no other subject imports are above API. See Table 21, CR at I-51; PR at II-37. Unit value data for imports indicate that subject imports from Japan enter at a significantly higher value than these other imports. See Table A-3, CR at A-10; PR at A-7. See Dissenting Views of Commissioner Carol T. Crawford in Stainless Steel Bar from Brazil, India, Japan, Spain, Invs. Nos. 731-TA-678,679, 681 and 682 (Final), for a description of her views on cumulation.

[134] Vice Chairman Nuzum joins in the general discussion of reasonable overlap of casing and tubing imports, but finds imports of casing and tubing from Italy to be negligible and therefore does not cumulate in the case of Italy. See Separate and Dissenting Views of Vice Chairman Nuzum.

[135] Because we find that casing and tubing imports from Austria and Spain are negligible, any arguments pertaining specifically to those imports are addressed in the section on negligibility.

[136] PR at II-14, II-37, and II-42; CR at I-16, I-50, and I-57.

[137] Over fifty-four percent of Japanese imports of OCTG entered through the port of Houston. PR at II-37; CR at I-50. We note that we do not have specific breakouts for casing and tubing imports and drill pipe imports. Nonetheless, given the small volume of drill pipe imports in relationship to all OCTG imports, it is logical that the vast majority of these imports were casing and tubing. Cf. Tables A-1 and A-2, PR at A-4 and A-7; CR at A-4 and A-7.

Subject casing and tubing imports and domestic casing and tubing generally are sold through the same channels of distribution. Virtually all subject imports and U.S. casing and tubing are sold to OCTG distributors who then resell the products to other distributors or end users. While a large share of Japanese imports (43 percent) was sold directly to end users, a larger share (57 percent) was sold to distributors.[138] There is evidence that many of the same distributors sell casing and tubing imports of OCTG from Argentina, Italy, Japan, Korea, and Mexico, as well as domestic OCTG.[139]

Subject casing and tubing imports and domestic casing and tubing were also simultaneously present in the market during the period of investigation. There were imports of casing and tubing from each subject country and shipments of domestic casing and tubing reported in each year from 1992 through 1994, as well as in interim 1995 (with the exception of imports from Italy).[140]

We also determine that imports from Argentina, Italy, Korea, Japan, and Mexico are fungible and compete with each other and the domestic product. Purchasers generally reported that subject imports were good or at least moderate substitutes for one another and for the domestic products.[141] [142]

With respect to Japanese imports specifically, there is an overlap in the size ranges and grades of imports from Japan, from other subject cumulated countries, and domestic casing and tubing.[143] While two of the three largest categories of Japanese imports (in terms of U.S. shipments) were in the "above-API" category (where there was little or no competition with other subject imports), there were nonetheless significant quantities of Japanese imports in the standard API categories as well (where there is the greatest degree of competition with other subject imports and the domestic product).[144] Although Japanese respondents reported selling in "niche" or specialty product categories,[145] total shipments in

---

[138] PR at II-9; CR at I-10.

[139] See Memorandum INV-S-102.

[140] See Table A-3, PR at A-7; CR at A-10.

[141] PR at II-35; CR at I-47. See also Memorandum EC-S-080.

[142] We note that Italian respondents alleged that Italian imports did not compete with the U.S. product because they were sold in distinct market niches. See, e.g., Italian Respondents' Prehearing Brief at 11-15. The evidence on the record does not support this, however. Purchasers viewed Italian imports as good or moderate substitutes for domestic OCTG. In addition, domestic OCTG was sold in all of the same API categories as Italian imports. There was also a reasonable overlap in competition of Italian casing and tubing with other subject imports of casing and tubing. See Table 21, PR at II-37; CR at I-51.

[143] In 1994, there were U.S. shipments of imports from Japan, all other subject imports, and domestic OCTG in the following categories: small J-55 tubing/casing, medium L-80 casing, and medium N-80 casing. There were also shipments of other grades of Japanese OCTG and most, although not all, other subject imports for: small L-80 tubing/casing, small N-80 tubing/casing, small P-110 tubing/casing, medium K-55 casing, and medium P-110 casing. As for the larger OCTG sizes, there were U.S. shipments of casing from Japan as well as Italy, Korea, and Mexico for several grades. Table 21, PR at II-37; CR at I-51.

[144] Notably, there were *** short tons of Japanese imports in the *** category; *** short tons of Japanese imports in the *** category; *** short tons of Japanese imports in the *** category. Table 21, PR at II-37; CR at I-51.

[145] The Japanese respondents provided the Commission with a list of specialty casing and tubing products at the outset of these final investigations for which the Commission collected product-specific shipment data. These data are presented in Appendix F (products 7-10). They include high sour

(continued...)

these categories did not exceed 20 percent of total Japanese shipments of casing and tubing during any year of the period of investigation, and were generally considerably less than that.[146] Moreover, the pricing data obtained in these final investigations indicate that Japanese products were sold in 9 out of 19 product categories for which pricing data were collected, and competed with imports from each of the other subject countries in at least some of these categories.[147]

Korean respondents also argued that imports from Korea should not be cumulated with other subject imports because Korean products are primarily welded, seam-annealed OCTG tubing, a form not offered by other subject countries. The evidence, however, indicates that seamless and welded products compete in certain applications, as do seam-annealed and full-body normalized welded products.[148] API specifications for most grades of casing and tubing specify that either welded or seamless construction is acceptable for the end-use applications.[149] Although many purchasers stated that they prefer seamless casing and tubing over welded casing or tubing in certain high-pressure, corrosive, and hazardous environments, 26 out of 34 purchasers stated that they find seamless and welded OCTG products to be substitutable in at least some applications. Similarly, over half of the purchasers stated that seam-annealed and full-body normalized OCTG were substitutable in some applications.[150] Furthermore, while some purchasers found Korean OCTG to be inferior in quality to most other subject imports or domestic OCTG, the majority stated that imports of OCTG from Korea, other subject countries, and the domestic product are substitutable.[151]

Based on these factors, as well as the fact that Japanese and Korean imports were sold in the same geographic regions, through similar channels of distribution, and were simultaneously present in the market with other subject imports and the domestic like product, we find that a reasonable overlap of competition exists among subject imports from Argentina, Italy, Korea, Mexico, and Japan, as well as between those imports and the domestic like product. We therefore cumulate all subject imports of casing and tubing, with the exception of such imports from Austria and Spain which we find to be negligible.

2. Negligibility of Casing and Tubing Imports

The Commission is not required to cumulate imports from a particular country if it determines that subject imports of the subject merchandise from that country "are negligible and have no discernable adverse impact on the domestic industry."[152] In determining whether

---

[145] (...continued)
resistance casing or tubing, high yield strength resistance for deep well casing or tubing, qualified high quality casing or tubing, and heavy-wall casing or tubing. PR at F-3-4; CR at F-3-4.

[146] Tables F-1 and F-3, PR at F-4-6; CR at F-5-18.

[147] The Commission chose thirteen specific products for price comparisons; however, because the Commission broke several of these categories into (a) seamless and (b) welded forms of the product (seam-annealed and full-body normalized), there were actually 19 possible product comparisons. See PR at II-44-45; CR at I-60 and I-61.

[148] PR at II-36; CR at I-49.

[149] The exceptions are for drill pipe and extremely thick casing, which must be seamless. PR at II-7; CR at I-7.

[150] PR at II-36; CR at I-49.

[151] PR at II-35 and II-42; CR at I-47 and I-58.

[152] 19 U.S.C. § 1677(7)(C)(v).

imports are negligible, the Act directs the Commission to consider all relevant economic factors, including whether:

(I) the volume and market share of the imports are negligible,
(II) sales transactions involving the imports are isolated and sporadic, and
(III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.[153]

We determine that casing and tubing imports from Austria and Spain are negligible.[154] We do not find that imports from Italy or Korea are negligible.[155] [156] No party raised any issue with respect to the negligibility of Argentine, Japanese, or Mexican imports, and we note that imports from these countries were well above negligible levels.[157]

---

[153] 19 U.S.C. § 1677(7)(C)(v). The negligible imports exception is to be applied narrowly and is not to be used to subvert the purpose and general applicability of the mandatory cumulation provision of the statute. See H.R. Rep. No. 40, Part I, 100th Cong., 1st Sess. 131 (1987); H.R. Rep. No. 576, 100th Cong., 2d Sess. 621 (1988).

[154] Commissioner Newquist and Commissioner Bragg find that imports of casing and tubing from Austria and Spain are not negligible. They therefore do not join the discussion of Austria and Spain in this section of the opinion. See Separate and Dissenting Views of Commissioner Newquist and Separate and Dissenting Views of Commissioner Bragg.

[155] Chairman Watson and Vice Chairman Nuzum find that imports of casing and tubing from Italy are negligible. See Separate and Dissenting Views of Chairman Watson and Separate and Dissenting Views of Vice Chairman Nuzum.

[156] Commissioner Crawford concurs with her colleagues that subject imports of casing and tubing from Austria and Spain are negligible. She further finds that subject imports of casing and tubing from Italy are negligible.

The statute directs the Commission to consider negligibility in the context of the price sensitivity of the market: "the Commission shall evaluate ... whether ... the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression." 19 U.S.C. § 1677(7)(C)(v). Price sensitivity, as defined by the statute, can be accurately measured by examining four aspects of the domestic industry: (1) the elasticity of demand, (2) the elasticity of supply, (3) the elasticity of nonsubject import supply, and (4) the aggregate elasticity of substitution between subject imports and the domestic like product. Applying these factors, Commissioner Crawford has concluded that the domestic casing and tubing market is not price sensitive.

Although the evidence indicates that the elasticity of demand and domestic supply are somewhat low and high, respectively, the elasticity of nonsubject import supply is relatively high. See EC-S-079 at 32-36 and Table A-3, CR at A-10; PR at A-7. Nonsubject imports of casing and tubing appear to compete with most subject imports. See Table 21, CR at I-51; PR at II-37. Moreover, the aggregate substitutability of domestic like product and subject imports is moderate to good. See CR at I-51, I-58 and Table A-3 at A-7; PR at II-37, II-42, and A-7; EC-S-079 at 23; Chairman Watson's Separate and Dissenting Views, and Commissioner Crawford's Separate and Dissenting Views.

Considering all statutory factors together, as discussed here and in the majority opinion, she finds that subject imports from Austria, Italy, and Spain are negligible. Having found that imports from each of these countries are negligible, she does not cumulate subject imports from Austria, Italy, and Spain with other subject imports. See Additional and Dissenting Views of Commissioner Carol T. Crawford, Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom, Invs. Nos. 701-TA-319-332, 334, 336-342, and 347-353 (Final) and Invs. 731-TA-573-579, 581-592, 594-597, 599-609, and 612-619 (Final) for a full description of her views on negligibility.

[157] See Table A-3, PR at A-7; CR at A-10.

a. Austrian Imports

The volume of subject imports (by quantity) of casing and tubing from Austria increased from *** short tons in 1992 to *** short tons in 1993, and then decreased to *** short tons in 1994. In interim 1995 there were *** imports from Austria compared to *** short tons in interim 1994.[158] In terms of quantity, the Austrian share of domestic consumption was *** percent in 1992, and *** percent in 1993, and *** percent in 1994. In interim 1994, market share was *** percent, but decreased to *** in interim 1995.[159]

We find that imports from Austria were relatively isolated and sporadic. Entries of Austrian imports were only recorded for one month in 1992, 6 months in 1993, 2 months in 1994, and not at all during the interim 1995 period.[160] Sales of Austrian OCTG were reported for only 3 out of 19 product categories.[161] Price comparisons were possible in only 7 out of 13 quarters covered by the period of investigation for product 4; only 5 out of 13 quarters for product 5; and only 4 out of 13 quarters for product 6.[162]

In the majority of available price comparisons, Austrian imports oversold the domestic product.[163] [164] Furthermore, none of the lost sale or revenue allegations that Commission staff investigated were confirmed.[165] [166] Thus, we could find no evidence of a discernible adverse impact of Austrian imports.

On balance, we find that imports of casing and tubing from Austria are negligible and have no discernible adverse impact on the domestic industry.

b. Italian Imports[167]

The volume of subject imports from Italy increased from *** short tons in 1992 to *** short tons in 1993, then decreased to *** short tons in 1994. Italian imports declined from *** to *** between interim 1994 and interim 1995. In terms of quantity, Italian share of domestic consumption was *** percent in 1992, *** percent in 1993, and *** percent in

---

[158] Table A-3, PR at A-7; CR at A-10.

[159] Table A-3, PR at A-7; CR at A-10.

[160] PR at II-37; CR at I-52.

[161] PR at II-45; CR at I-62.

[162] Tables 27, 28, and 30, PR at II-47; CR at I-68, 69, and 71.

[163] PR at II-49; CR at I-80.

[164] Commissioner Crawford does not place great weight on underselling price comparisons in determining the impact of subject imports on the domestic like product where these comparisons show persistent and consistent high margins of overselling or underselling. In these instances, the prices being compared might well reflect quality, reputation, or other nonprice differences, making these comparisons less useful in assessing price effects.

[165] PR at II-51-55; CR at I-93-98.

[166] Commissioner Crawford typically does not rely on anecdotal evidence of lost sales and revenues indicating that competition from the subject imports caused domestic producers to lose particular sales or forced them to reduce their prices on other sales in reaching her determinations.

[167] Chairman Watson, Vice Chairman Nuzum, and Commissioner Crawford do not join this section of the opinion. See Separate and Dissenting Views of Chairman Watson, Separate and Dissenting Views of Vice Chairman Nuzum, and note 156, supra, for the views of Commissioner Crawford.

1994. In interim 1994, market share was *** percent, but decreased to *** in interim 1995.[168]

We find that imports from Italy were not isolated or sporadic. Entries of Italian imports were recorded for 6 months in 1992, all 12 months in 1993, 10 months in 1994, and not at all in the interim 1995 period.[169] Sales of Italian OCTG were reported for product categories 1, 3, 7, 10, and 11.[170]

There was relatively pervasive underselling by Italian imports. We do not find that these imports had no discernible adverse impact given the additional evidence of lost sales.[171] On balance, we conclude that Italian imports, despite relatively low levels, were not negligible.

c. Korean Imports

The volume of subject imports of casing and tubing from Korea increased from 1992 to 1994, from *** short tons in 1992 to *** short tons in 1993, to *** short tons in 1994. In interim 1994, the volume of Korean imports was *** short tons compared to *** short tons in interim 1995. The Korean share of U.S. consumption by quantity was *** percent in 1992, *** percent in 1993, and *** percent in 1994. In interim 1994, Korean market share was *** percent, falling to *** percent in interim 1995.[172]

We find that imports from Korea were not isolated and sporadic and competed in several product categories for which the Commission collected pricing data.[173] Entries of Korean imports were recorded 5 months in 1992, 9 months in 1993, and 11 months in 1994, as well as during interim 1995.[174] Sales of Korean OCTG were reported for 7 product categories (1a and 1b, 3a and 3b, 5, 6, and 7).[175] Sales and price comparisons were reported in all quarters in category 1b and almost all quarters in category 3b.[176]

While the Korean import penetration levels were relatively low, we do not find Korean imports to be negligible because Korean imports were not isolated and sporadic, imports increased in the most recent full-year period (1993-94), and there is evidence of discernible adverse price effects.[177] [178]

---

[168] Table A-3, PR at A-7; CR at A-10.

[169] PR at II-37; CR at I-52.

[170] PR at II-45; CR at I-62.

[171] Petitioners provided several lost sale/lost revenue allegations claiming lost sales to Italian imports. One purchaser, ***, stated that two of the allegations "were probably valid since imports from *** were extremely low in ***." PR at II-51; CR at I-93-94. ***, another distributor, also confirmed that a lost revenue allegation "could easily be valid" since that distributor had lost sales of *** products to large supplies of low-priced Italian imports of casing. PR at II-54; CR at I-95-96.

[172] Table A-3, PR at A-7; CR at A-10.

[173] See also Posthearing Brief of Korean Respondents at 2-3.

[174] PR at II-37; CR at I-52.

[175] PR at II-45; CR at I-62.

[176] Tables 24 and 26, PR at II-47; CR at I-65 and I-67.

[177] ***, a distributor, stated that Korean imports are priced lower than domestic OCTG and that those imports exerted downward pressure on prices in 1993 and 1994. PR at II-54; CR at I-97. One other distributor of domestic OCTG also confirmed that it often loses sales to low-priced imports from Korea. PR at II-55; CR at I-98.

d. Spanish Imports

The volume of imports of casing and tubing from Spain increased from *** short tons in 1992 to *** short tons in 1993, then decreased slightly to *** short tons in 1994. Imports increased from *** short tons in interim 1994 to *** short tons in interim 1995.[179] In terms of quantity, the Spanish imports' share of domestic consumption was *** percent in 1992 and *** percent in 1993 and 1994. In interim 1994, Spanish market share was *** percent, and was *** percent in interim 1995.[180]

Entries of Spanish imports were recorded in 11 months in 1992, 10 months in 1993, 7 months in 1994, as well as during interim 1995.[181] Sales of Spanish OCTG were reported only for product categories 2 and 4.[182] There were no price comparisons presented for category 2 due to a lack of sales from other subject sources or domestic producers in this category. There was only one price comparison in category 4.[183]

We note that competition between imports from Spain and the United States (as well as other subject imports) is more attenuated because imports from Spain are completely unfinished and there are no sales of comparable unfinished domestic product. The reduced level of competition is evidenced by the lack of price comparisons and the lack of any confirmed lost sale or revenue allegations. The low levels of Spanish imports, coupled with the attenuated competition and lack of evidence regarding adverse price effects, leads us to conclude that imports from Spain are negligible.

B. Material Injury to the Domestic Industry Producing OCTG Excluding Drill Pipe by Reason of Cumulated Subsidized and LTFV Imports[184]

In final countervailing and antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports that Commerce has determined are subsidized or sold at LTFV.[185] The Commission must consider the volume of imports, their effect on prices for the like product, and their impact on domestic producers of the like product, but only in the context of the U.S. production operations.[186] Although the Commission may consider alternative causes of

---

[178] (...continued)

[178] While Commissioner Crawford finds that the domestic casing and tubing industry is not price sensitive to "a small quantity of imports," she finds the Korean market share of *** percent by quantity in 1994 to be relatively significant. In addition to the factors discussed in note 156, supra, she notes that subject imports from Korea are substitutable with the domestic like product. See Commissioner Crawford's Separate and Dissenting Views.

[179] Table A-3, PR at A-7; CR at A-10.

[180] Table A-3, PR at A-7; CR at A-10.

[181] PR at II-37; CR at I-52.

[182] PR at II-45; CR at I-62.

[183] Table 27, PR at II-47; CR at I-68. Moreover, there were no confirmed lost sales or revenue allegations regarding Spain. PR at II-55; CR at I-98 n.96.

[184] Chairman Watson, Vice Chairman Nuzum, Commissioner Rohr, and Commissioner Crawford find there is no material injury to the domestic casing and tubing industry by reason of subject imports of casing and tubing from Austria and Spain. Such imports were insignificant in terms of absolute volume and as a share of domestic consumption. The record contains no evidence that imports from these countries independently had a significant suppressing or depressing effect on domestic prices.

[185] 19 U.S.C. §§ 1671d(b) and 1673d(b).

[186] 19 U.S.C. § 1677(7)(B)(i).

injury,[187] it may not weigh causes.[188] [189] For the reasons discussed below, we find that the domestic industry producing casing and tubing is materially injured by reason of subsidized and LTFV imports from Argentina, Italy, Korea, Mexico, and Japan.[190]

1. The Volume of Cumulated Subject Imports

We find that the cumulated volume of subject imports of casing and tubing is significant.[191] The absolute volume and value of cumulated subject imports increased dramatically from 1992 to 1994. While there was a decline in subject import volume and value from 1993 to 1994, the level of cumulated imports in 1994 remained well above the 1992 level. Both volume and value of subject imports declined significantly in interim 1995 compared to interim 1994.[192] [193] [194] Furthermore, the rate of increase in the volume of

---

[187] 19 U.S.C. § 1677(7)(B)(ii).

[188] See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988). Alternative causes may include the following:

> {T}he volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry.

S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).

[189] Commissioner Rohr and Commissioner Newquist further note that the Commission need not determine that imports are "the principal, a substantial, or a significant cause of material injury." S. Rep. No. 249, at 57, 74. Rather, a finding that imports are a cause of material injury is sufficient. See, e.g., Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista, 704 F. Supp. at 1101.

[190] Because Commissioner Newquist and Commissioner Bragg have cumulated imports of casing and tubing from Austria and Spain with imports from the other subject countries, they find that the domestic casing and tubing industry is materially injured by reason of subsidized and LTFV imports from all seven subject countries. They note that inclusion of the import data from Austria and Spain makes even more compelling the data upon which their colleagues have relied in making their affirmative determinations.

[191] The four Commissioners participating in this portion of the opinion cumulated different countries as follows: Vice Chairman Nuzum cumulated imports of casing and tubing from Argentina, Japan, Korea, and Mexico; Commissioner Rohr cumulated imports of casing and tubing from Argentina, Italy, Japan, Korea, and Mexico; Commissioner Newquist and Commissioner Bragg cumulated all subject imports of casing and tubing.

[192] Vice Chairman Nuzum notes that the cumulated volume of imports of casing and tubing from the subject countries other than Austria, Italy, and Spain increased by *** percent between 1992 and 1994, rising from *** short tons in 1992 to *** short tons in 1993, then slipping to *** short tons in 1994. Between interim 1994 and interim 1995, the volume of such imports fell by *** percent, from *** to *** short tons. The cumulated value of imports of casing and tubing from the subject countries other than Austria, Italy, and Spain increased by *** percent between 1992 and 1994, rising from *** in 1992 to *** in 1993, then slipping to *** in 1994. Between interim 1994 and interim 1995, the value of such imports fell by *** percent, from *** to ***. Table A-3, PR at A-7; CR at A-10.

[193] Commissioner Rohr notes that the cumulated volume of imports of casing and tubing from the subject countries other than Austria and Spain increased by *** percent between 1992 and 1994, rising from *** short tons in 1992 to *** short tons in 1993, then slipping to *** short tons in 1994. Between interim 1994 and interim 1995, the volume of such imports fell by *** percent, from *** to *** short tons. The cumulated value of imports of casing and tubing from the subject countries other

(continued...)

cumulated subject imports was far greater than the overall increase in consumption between 1992 and 1994.[195]

The market share of cumulated subject imports by both volume and value also rose significantly, nearly doubling from 1992 to 1994, and declined significantly in interim 1995 compared to interim 1994.[196] [197] [198] During this same time period, domestic producers' market share declined substantially.[199] As noted previously in our discussion of cumulation, purchasers found subject imports and the domestic product to be largely substitutable. Thus, because of the relatively high degree of substitutability between the cumulated subject imports and the domestic product, we find that the significant increased volume of subject imports actively displaced the domestic product. Conversely, during the interim period when cumulated subject imports dropped significantly in absolute terms and in terms of market share, domestic producers' market share rebounded.[200]

---

[193] (...continued)
than Austria and Spain increased by *** percent between 1992 and 1994, rising from *** in 1992 to *** in 1993, then slipping to *** in 1994. Between interim 1994 and interim 1995, the value of such imports fell by *** percent, from *** to ***. Table A-3, PR at A-7; CR at A-10.

[194] Commissioners Newquist and Bragg note that the cumulated volume of imports of casing and tubing from all seven subject countries increased by *** percent between 1992 and 1994, rising from *** short tons in 1992 to *** short tons in 1993, then slipping to *** short tons in 1994. Between interim 1994 and interim 1995, the volume of such imports fell by *** percent, from *** to *** short tons. The cumulated value of imports of casing and tubing from all seven subject countries increased by *** percent between 1992 and 1994, rising from *** in 1992 to *** in 1993, then slipping to *** in 1994. Between interim 1994 and interim 1995, the value of such imports fell by *** percent, from *** to ***. Table A-3, PR at A-7; CR at A-10.

[195] Table A-3, PR at A-7; CR at A-10.

[196] Vice Chairman Nuzum notes that the cumulated market share (by volume) of imports of casing and tubing from the subject countries other than Austria, Italy, and Spain increased from *** percent in 1992 to *** percent in 1993 and to *** percent in 1994. Between interim 1994 and interim 1995, the market share (by volume) of such imports fell from *** to *** percent. The cumulated market share (by value) of imports of casing and tubing from the subject countries other than Austria, Italy, and Spain increased from *** percent in 1992 to *** percent in 1993, and remained at *** percent in 1994. Between interim 1994 and interim 1995, the market share (by value) of such imports fell from *** to *** percent. Table A-3, PR at A-7; CR at A-10.

[197] Commissioner Rohr notes that the cumulated market share (by volume) of imports of casing and tubing from the subject countries other than Austria and Spain increased from *** percent in 1992 to *** percent in 1993, and decreased slightly to *** percent in 1994. Between interim 1994 and interim 1995, the market share (by volume) of such imports fell from *** to *** percent. The cumulated market share (by value) of imports of casing and tubing from the subject countries other than Austria and Spain increased from *** percent in 1992 to *** percent in 1993, then slipped to *** percent in 1994. Between interim 1994 and interim 1995, the market share (by value) of such imports fell from *** to *** percent. Table A-3, PR at A-7; CR at A-10.

[198] Commissioner Newquist and Commissioner Bragg note that the cumulated market share (by volume) of imports of casing and tubing from all seven subject countries increased from *** percent in 1992 to *** percent in 1993, and was *** percent in 1994. Between interim 1994 and interim 1995, the market share (by volume) of such imports fell from *** to *** percent. The cumulated market share (by value) of imports of casing and tubing from all seven subject countries increased from *** percent in 1992 to *** percent in 1993, then slipped to *** percent in 1994. Between interim 1994 and interim 1995, the market share (by value) of such imports fell from *** to *** percent. Table A-3, PR at A-7; CR at A-10.

[199] Table A-3, PR at A-7; CR at A-10.

[200] Table A-3, PR at A-7; CR at A-10.

Given the increase in penetration of the U.S. market and the overall dramatic increase in volume and market share of the cumulated subject imports, we find the volume of such imports to be significant.

2. The Effect of Cumulated Subject Imports on Domestic Prices

The domestic and imported products are generally substitutable and purchasers reported that price is one of the most important factors in purchasing decisions.[201] Many purchasers indicated that they bought the subject imports because of their lower price.[202]

The evidence indicates that prices of domestic casing and tubing fluctuated or declined during the period of investigation. There were no clear trends with respect to cumulated subject import prices. Pricing trends of different countries varied and also varied by product category.[203] The evidence was also mixed with respect to patterns of over- and underselling.[204]

Despite the mixed evidence as to instances of underselling and overselling, we find that the underselling of subject imports, however cumulated, is nevertheless significant. We particularly find underselling by subject imports to be significant in instances where purchasers report that the quality of such imports is superior to the domestic product (e.g., in the case of Japanese imports which represented a large share of the total cumulated imports).

We also find that subject cumulated imports suppressed domestic prices to a significant degree, despite the unclear pattern of domestic and import prices.[205] The significant volumes of casing and tubing available from the subject cumulated countries effectively kept domestic producers from raising prices despite high costs relative to revenues.[206] Because imported and domestic casing and tubing are relatively close substitutes, changes in relative prices are likely to cause purchasers to shift among supply sources. This was confirmed by a number of purchasers that were contacted in order to verify petitioners' lost sale and lost revenue allegations.[207] Purchasers repeatedly stated that subject imports from Argentina, Italy, Korea, Japan, and Mexico exerted downward pressure on domestic prices.[208]

For these reasons, we find that subject cumulated imports of casing and tubing suppressed domestic prices of casing and tubing to a significant degree.

---

[201] PR at II-41; CR at I-56. Among the 33 distributors, 18 considered price to be the most important purchasing consideration. Final Economic Memorandum at 12.

[202] See generally PR at II-51-55; CR at I-93-98.

[203] See generally Tables 23-38, PR at II-47-48; CR at I-64-79.

[204] Tables 39-46, PR at II-49-50; CR at I-82-89.

[205] There was also limited evidence of price depression of domestic prices. For example, domestic prices for product 4 ***, and domestic prices in several other product categories ***. PR at II-46; CR at I-62-63.

[206] Cost of goods sold increased by 26.1 percent from 1992 to 1994 and increased 20.2 percent between interim periods. Table A-8, PR at A-11; CR at A-16. The ratio of cost of goods sold to net sales fluctuated, but was at very high levels throughout the period of investigation. Table A-8, PR at A-11; CR at A-16.

[207] Petitioners also noted that they attempted to raise prices during the period of investigation but were unable to do so because of lower import prices. Only after the filing of these investigations were producers able to increase prices. See, e.g., Petitioners' Posthearing Brief, Vol. I, at 18.

[208] See generally PR at II-51-55; CR at I-93-98.

3. The Impact of Cumulated Subject Imports on the Domestic Industry

The adverse impact of the cumulated subject imports is reflected in the poor operating performance of the domestic industry (despite a sharp increase in U.S. consumption) and in the decline in U.S. market share of over *** percentage points from 1992 to 1994. Subject imports, however cumulated, captured a significant portion of the increase in consumption, and also took market share away from domestic producers.[209] During the period when cumulated subject imports were increasing their market share, the domestic industry experienced continued operating losses, domestic producers operated at low levels of capacity utilization, and inventories of the domestic producers increased.[210]

In our view, the large volumes of cumulated subject imports, which purchasers generally view as good substitutes for the domestic product, are inhibiting the domestic industry from increasing market share and from raising prices. Because demand is relatively dependent on the level of drilling activity, decreases in prices for the subject products will not generally lead to significant increases in overall volumes demanded. Thus, suppliers must compete for market share and the lowest price will generally prevail. As discussed in the previous section, the adverse impact of subject cumulated imports was also reflected in the inability of the domestic industry to raise prices sufficiently to cover costs between 1992 and 1994. As a result, the industry suffered pervasive operating losses throughout the period of investigation.[211]

We also find it noteworthy that the domestic industry's condition improved dramatically in interim 1995 compared to interim 1994. During this same period there was a dramatic decline in the volume of cumulated subject imports.[212] [213] [214] [215] While there was a *** percent growth in overall U.S. consumption, the rate of improvement in the domestic industry's production, capacity utilization, shipments, and net sales (in terms of both quantity and value), far outpaced this modest growth in consumption. Moreover, the industry's operating loss declined by 63.3 percent in interim 1995 compared with the 1994 interim period. Also in interim 1995, the industry recorded a gross profit unlike in either interim or full-year 1994.[216]

---

[209] Table A-3, PR at A-7; CR at A-10.

[210] Tables A-3 and A-8, PR at A-7 and A-11; CR at A-10 and A-16.

[211] See Table A-8, PR at A-11; CR at A-16.

[212] One reason we generally do not place great weight on interim period data is because the conditions in the industry are likely to be affected by the pendency of the investigations or by interim duties. In this instance, however, we are simply noting the effects on the industry of the withdrawal of imports from the market. We are not drawing conclusions as to the reason behind the withdrawal, e.g., whether this is due to the pendency of the investigations and/or imposition of preliminary duties.

[213] Vice Chairman Nuzum notes that cumulated subject imports of casing and tubing from Argentina, Japan, Korea, and Mexico declined by *** percent between interim periods. Table A-3, PR at A-7; CR at A-10.

[214] Commissioner Rohr notes that cumulated subject imports of casing and tubing from Argentina, Italy, Japan, Korea, and Mexico declined by *** percent between interim periods. Table A-3, PR at A-7; CR at A-10.

[215] Commissioner Newquist and Commissioner Bragg note that cumulated subject imports of casing and tubing from Austria, Argentina, Italy, Japan, Korea, Mexico, and Spain declined by *** percent between interim periods. Table A-3, PR at A-7; CR at A-10.

[216] See Tables A-3 and A-8, PR at A-7 and A-11; CR at A-11 and A-16.

C. No Threat of Material Injury by Reason of Negligible Imports of Casing and Tubing from Austria and Spain[217]

Section 771(7)(F) of the Act directs the Commission to determine whether a U.S. industry is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent." The Commission is not to make such a determination "on the basis of mere conjecture or supposition."[218] We have considered all the statutory factors that are relevant to these investigations.[219] [220]

In assessing whether a domestic industry is threatened with material injury by reason of imports from two or more countries, the Commission has discretion to cumulate the volume and price effects of such imports if they compete with each other and the domestic like product.[221] In addition, the Commission has considered whether the imports are increasing in the U.S. market, whether the imports have similar patterns of underselling, and the probability that imports will enter the United States at prices that would have a depressing or suppressing effect on domestic prices of that merchandise.[222] Because we find that imports of casing and tubing from Austria and Spain are negligible, we do not cumulate such imports for purposes of our threat analysis.

With respect to imports of casing and tubing from Austria, volume and market share of those imports were negligible over the period reviewed, and declined in the latter periods. Given the current lack of adverse price effects, and the lack of evidence of future changes in price effects, we find no probability that any future imports will enter the United States at prices that will have a depressing or suppressing effect. Inventories were only reported in *** and decreased by *** percent over that period.[223] Thus, we do not find that the threat of material injury is real and that actual injury is imminent by reason of imports of casing and tubing from Austria.

Similarly, with respect to imports of casing and tubing from Spain, we also found volume and market share of those imports to be negligible over the period reviewed. We

---

[217] Commissioner Newquist and Commissioner Bragg do not join in this section.

[218] 19 U.S.C. § 1677(7)(F)(ii). An affirmative determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland, B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984), aff'd sub nom., Armco, Inc. v. United States, 760 F.2d 249 (Fed. Cir. 1985).

[219] 19 U.S.C. § 1677(7)(F)(i)(I)-(X). In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. 19 U.S.C. § 1677(7)(F)(iii)(I). There is no evidence of any third-country antidumping findings or remedies against subject imports of casing or tubing. The Commission does not need to analyze factor (IX) because these investigations do not involve imports of agricultural products. We have also considered the nature of the Austrian and Italian subsidies, pursuant to 19 U.S.C. § 1677(7)(E)(i) and (F)(i)(I). We do not find that the effect of these subsidies threaten material injury to the domestic casing and tubing industry.

[220] We note that all responding domestic mills supported the petition in these investigations. Table 3, PR at II-17; CR at I-19. Seven processors supported the petition, 2 opposed it, and the remainder took no position. PR at II-17 n.41; CR at I-20 n.41.

[221] 19 U.S.C. § 1677(7)(F)(iv).

[222] Kern-Liebers v. United States, Slip Op. 95-9 at 37; Asociacion Colombia de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1171-72 (Ct. Int'l Trade 1988).

[223] Table A-3, PR at A-7; CR at A-10.

find a lack of current adverse price effects, and we see no probability that any future imports will enter the United States at prices that will have a depressing or suppressing effect. There were *** inventories reported during any period of the investigation of the Spanish product.[224] We therefore find that the threat of material injury is not real and that actual injury is not imminent by reason of imports of casing and tubing from Spain.

V. SUBJECT IMPORTS OF DRILL PIPE

A. Cumulation

We cumulate imports from Argentina and Mexico, but not Japan for purposes of determining whether the domestic drill pipe industry is materially injured by reason of subject imports of drill pipe.[225] [226] [227] [228] In addition, we find drill pipe imports from Austria, Italy, Korea, and Spain to be negligible.

1. Reasonable Overlap of Competition

For purposes of determining whether there is material injury by reason of imports of drill pipe, we determine that there is a reasonable overlap of competition of drill pipe imports from Argentina and Mexico and the domestic like product, but we do not find a reasonable overlap of competition of drill pipe imports from Japan with drill pipe imports from Argentina and Mexico.[229]

Drill pipe imports from Argentina, Japan, and Mexico were all simultaneously present in the market and sold in the same geographic markets.[230] Imports of drill pipe from

---

[224] Table A-3, PR at A-7; CR at A-10.

[225] Chairman Watson and Commissioner Crawford determine that an industry producing drill pipe is materially injured by reason of subject imports of drill pipe from Argentina, Japan, and Mexico. See Separate and Dissenting Views of Chairman Watson and Separate and Dissenting Views of Commissioner Crawford.

[226] Vice Chairman Nuzum determines that the domestic drill pipe industry is not materially injured by reason of imports of drill pipe from Argentina, Japan, and Mexico. See Separate and Dissenting Views of Vice Chairman Nuzum.

[227] Commissioner Rohr and Commissioner Newquist find that the domestic drill pipe industry is not currently materially injured, and therefore do not reach the issue of cumulation of drill pipe imports for purposes of a present material injury causation analysis. See, supra, note 125. They therefore do not join this section of the opinion.

[228] Commissioner Bragg determines that the domestic drill pipe industry is not materially injured by reason of imports of drill pipe from Argentina, Japan, and Mexico. See Separate and Dissenting Views of Commissioner Bragg.

[229] As discussed above, in assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product; (2) the presence of sales or offers to sell in the same geographical markets; (3) the existence of common or similar channels of distribution; and (4) whether the imports are simultaneously present in the market. See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[230] Table A-2, PR at II-9 n.25 and A-7; CR at I-10 n.25 and A-7.

Argentina and Mexico and U.S.-produced drill pipe were sold ***, whereas sales of Japanese imports ***.[231]

We find, however, that imports of drill pipe from Japan are not fungible with imports of drill pipe from Argentina and Mexico. Virtually all drill pipe imported from Japan consists of either mill-finished drill pipe or unfinished heavy-weight drill pipe ("HWDP"), whereas imports of drill pipe from Argentina and Mexico consist of unfinished standard-weight drill pipe ("SWDP").[232] The mill-finished Japanese drill pipe includes the tool joint, which as we discussed in the like product section, is a high value component. The unfinished HWDP is also a higher-priced product than unfinished SWDP from Argentina and Mexico. While both HWDP and SWDP are used in the drill string to drill the well hole, HWDP is designed for use under difficult drilling conditions. Thus, Japanese drill pipe had significantly higher unit values than drill pipe imports from Argentina and Mexico.[233]

The channels of distribution of Japanese drill pipe differ somewhat from the channels of distribution of the Argentine and Mexican drill pipe. Argentine and Mexican drill pipe are sold to drill pipe distributors and/or processors, whereas mill-finished drill pipe from Japan was typically sold to end-users.[234] Unfinished HWDP from Japan was also sold to drill pipe processors, but was commonly sold to specialized drill pipe distributors and/or processors.[235]

For the above reasons, we find that there is a reasonable overlap of competition among subject imports from Argentina and Mexico and the domestic like product, but not between these imports and subject imports of drill pipe from Japan.[236]

2. Negligibility of Drill Pipe Imports

We find that imports of drill pipe from Austria, Italy, Korea, and Spain are negligible. There were no imports of drill pipe from Austria, Korea, and Spain during the period of investigation, thus, imports could not have exerted an adverse impact on the domestic industry.

The only imports of Italian drill pipe consisted of *** in 1992 and *** tons in 1993. Thus, such imports were isolated and sporadic and did not recur in the more recent

---

[231] PR at II-9; CR at I-10.

[232] Table F-1, PR at F-4; CR at F-7.

[233] Table A-2, PR at A-7; CR at A-7.

[234] PR at II-11; CR at I-13.

[235] PR at II-9 n.25; CR at I-10 n.25.

[236] As discussed supra, note 133, Commissioner Crawford finds that substitutability, not fungibility, is a more accurate reflection of the statute. In these investigations, she finds there is insufficient substitutability between subject imports of drill pipe from Japan and subject imports of drill pipe from Argentina and Mexico to conclude there is a reasonable overlap of competition. However, she finds sufficient substitutability exists between subject imports from Argentina and Mexico. See Tables A-2 and F-1, CR at A-7 and F-7, 12, and 13; PR at A-7 and F-4. Therefore, she concurs with her colleagues that subject imports from Japan should not be cumulatively assessed with subject imports from Argentina and Mexico. There were no imports of drill pipe from Austria, Italy, Korea or Spain in 1994. Therefore, there are no imports from these four countries to cumulate. See Dissenting Views of Commissioner Carol T. Crawford in Stainless Steel Bar from Brazil, India, Japan, Spain, Invs. Nos. 731-TA-678,679, 681 and 682 (Final), for a description of her views on cumulation.

periods.[237] The record contains no evidence that the *** levels of Italian drill pipe imports had any discernible adverse impact on the U.S. drill pipe industry.[238]

B. Threat of Material Injury by Reason of Subject Imports of Drill Pipe

1. Cumulation for Threat

For purposes of our threat of material injury analysis, we have determined to exercise our discretion to cumulate imports of drill pipe from Argentina and Mexico,[239] but we do not cumulate imports of drill pipe from Austria, Italy, Japan, Korea, or Spain.[240] As noted in the cumulation section for casing and tubing above, in assessing whether a domestic industry is threatened with material injury by reason of imports from two or more countries, the Commission has discretion to cumulate the volume and price effects of such imports if they compete with each other and the domestic like product.[241]

Because we find that imports of drill pipe from Austria, Italy, Korea, and Spain are negligible, we conclude that these countries should not now be cumulated for our assessment of threat of material injury.[242]

We also do not cumulate drill pipe imports from Japan with drill pipe imports from Argentina and Mexico for purposes of our threat analysis because, as discussed in more detail above, we do not find that drill pipe imports from Japan compete with drill pipe imports from Argentina and Mexico.

---

[237] Table A-2, PR at A-7; CR at A-7.

[238] In light of our finding of the lack of discernible adverse impact of these negligible imports, we determine that the domestic industry producing drill pipe is not materially injured by reason of drill pipe imports from Austria, Italy, Korea, or Spain. Such imports were nonexistent or insignificant in terms of absolute volume and as a share of domestic consumption. The record contains no evidence that imports from these countries independently had a significant suppressing or depressing effect on domestic prices.

[239] Commissioner Rohr notes that he does not formally cumulate in threat investigations and thus makes individual determinations with respect to each country subject to investigation. He further notes that he does "informally cumulate" imports in appropriate circumstances by considering the presence of other unfairly traded imports as another demonstrable adverse trend in making his individual determination. He finds that the Commission's discussion of cumulation of the Argentine and Mexican drill pipe imports establishes that appropriate circumstances exist for considering the presence of the Argentine and Mexican imports of drill pipe together as such a trend.

[240] Commissioner Newquist cumulated imports of drill pipe from Japan with imports from Argentina and Mexico for purposes of his threat of material injury analysis, and finds that the domestic casing and tubing industry is materially injured by reason of subsidized and LTFV imports from those three subject countries. He notes that inclusion of the import data from Japan makes even more compelling the data upon which his colleagues have relied in making their affirmative determinations. For Commissioner Newquist's cumulation analysis, see his Separate and Dissenting Views.

[241] 19 U.S.C. § 1677(7)(F)(iv). In addition, for purposes of threat, the Commission considers whether the imports are increasing at similar rates in the same markets, whether the imports have similar patterns of underselling, and the probability that imports will enter the United States at prices that would have a depressing or suppressing effect on domestic prices of that merchandise. Kern-Liebers v. United States, Slip Op. at 37; Asociacion Colombia de Exportadores de Flores v. United States, 693 F. Supp. at 1171-72.

[242] See 19 U.S.C. § 1677(7)(C)(v).

We cumulate imports of drill pipe from Argentina and Mexico for purposes of our threat analysis, notwithstanding the somewhat divergent trends in import volumes in the latter portion of the period of investigation. We base our decision to cumulate on the overlap in competition of the Argentine and Mexican drill pipe imports (discussed in section V.A.1. above); the similar trends in prices of Argentine and Mexican imports;[243] and the cross-ownership of foreign producers of drill pipe in those two countries.[244] Thus, pursuant to section 771(7)(F)(iv) of the Act, we cumulatively assess the volume and price effects of imports of drill pipe from Argentina and Mexico.[245]

2. Threat of Material Injury by Reason of Imports of Drill Pipe from Argentina, Japan, and Mexico

As noted above, section 771(7)(F) of the Act directs the Commission to determine whether a U.S. industry is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent." The Commission is not to make such a determination "on the basis of mere conjecture or supposition."[246] We have considered all the statutory factors that are relevant to these investigations.[247] [248]

a. Imports of Drill Pipe from Argentina and Mexico

There is significant unused production capacity in Argentina. The record indicates that total drill pipe production capacity in Argentina *** drill pipe production and total Argentine drill pipe shipments. Capacity utilization was ***. The total amount of unused capacity of drill pipe in Argentina was equivalent to *** percent of 1994 total apparent U.S.

---

[243] We note that prices of Argentine and Mexican drill pipe reported in product category 12 both *** over the period of investigation, as did their average unit values. See Table 37, PR at II-17; CR at I-78; Table A-2, PR at A-7; CR at A-7; Table F-1, PR at F-4; CR at F-13.

[244] PR at II-20; CR at I-24.

[245] 19 U.S.C. § 1677(7)(F)(iv).

[246] 19 U.S.C. § 1677(7)(F)(ii). An affirmative determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland, B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984), aff'd sub nom., Armco, Inc. v. United States, 760 F.2d 249 (Fed. Cir. 1985).

[247] 19 U.S.C. § 1677(7)(F)(i)(I)-(X). In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. 19 U.S.C. § 1677(7)(F)(iii)(I). There is no evidence of any third-country antidumping findings or remedies against subject imports of drill pipe. We do not need to analyze factor (I) for our analysis of imports of drill pipe from Argentina, Japan, and Mexico. We also need not examine factor (IX) because these investigations do not involve imports of agricultural products.

[248] We note that all responding domestic mills producing drill pipe supported the petition in these investigations. Table 3, PR at II-17; CR at I-19. Seven processors supported the petition, 2 opposed it, and the remainder took no position. PR at II- n.41; CR at I-20 n.41.

consumption of drill pipe.[249] Unused production capacity in Mexico *** from 1992 to 1994 and in interim 1995 compared to interim 1994. Notwithstanding the *** in unused capacity, we find it significant that there was *** in production of drill pipe from 1992 to 1994, most of which was ***.[250]

The volume and market penetration of drill pipe from Argentina and Mexico increased significantly. The quantity of cumulated subject imports increased from *** short tons in 1992 to *** short tons in 1994, a *** percent increase. Cumulated Argentine and Mexican imports were lower in interim 1995 than in interim 1994; nevertheless, imports in interim 1995 were ***.[251] [252] Market penetration of cumulated imports from Argentina and Mexico measured in terms of quantity increased from *** percent of U.S. consumption of drill pipe in 1992 to *** percent 1994. Market share decreased from approximately *** percent in interim 1994 to approximately *** percent in interim 1995.[253] [254] [255]

Argentine production of drill pipe is projected ***.[256] Based, however, on the fact that the United States is one of Argentina's principal markets for drill pipe and that imports of drill pipe from Argentina *** during the period of investigation, we find that production from the *** production capacity in Argentina will likely be directed to the United States. In addition, the data provided by the Argentine producers indicate that, from 1992 to 1994, home market and other export market shipments ***. Thus, we find that the *** is inconsistent with other data and therefore not reliable.[257]

---

[249] Compare Tables E-1 and E-5 with Table E-2, PR at E-4 and A-7; CR at E-3 and E-5 and A-7. Annual drill pipe production capacity in Argentina is *** short tons. Table E-1, PR at E-3; CR at E-3.

[250] Table E-5, PR at E-4; CR at E-7.

[251] Table A-2, PR at A-7; CR at A-7. We note that declines in interim periods may be attributable to the pendency of these investigations.

[252] Commissioner Rohr notes that on a non-cumulated basis there was a rapid increase in the volume of drill pipe imports from Argentina and Mexico. Imports of drill pipe from Argentina increased by *** percent by quantity from 1992 to 1994 from *** short tons to *** short tons. Argentine imports were lower in interim 1995 than in interim 1994, but imports in interim 1995 were ***. Imports of drill pipe from Mexico increased from *** short tons in 1992 to *** short tons in 1994. Mexican imports increased to *** short tons in interim 1995 compared to *** short tons in interim 1994. Table A-2, PR at A-7; CR at A-7.

[253] Table A-2, PR at A-7; CR at A-7. Again, we note that declines in interim periods may be attributable to the pendency of these investigations.

[254] Because incomplete data on OCTG were received from importers, Mexican import volume and market share were calculated based on Commerce's official import statistics. PR at II-19; CR at I-24. However, our determinations would not have been different had questionnaire data been used in these calculations. Based on questionnaire data, U.S shipments of drill pipe from Argentina and Mexico *** Table A-2, PR at A-7; CR at A-7; Table F-1, PR at F-4; CR at F-7.

[255] Commissioner Rohr notes that on a non-cumulated basis there was a rapid increase in the market share of drill pipe imports from Argentina and Mexico. The market share of drill pipe from Argentina by quantity, increased from 1992 to 1994 from *** percent of U.S. consumption to *** percent of U.S. consumption. Argentine imports' market share was lower in interim 1995 than in interim 1994, but the share in interim 1995 was ***. Market penetration of imports of drill pipe from Mexico increased from *** percent in 1992 to *** percent in 1994. Additionally, Mexican imports' market share increased to *** percent in interim 1995 compared to *** percent in interim 1994. Table A-2, PR at A-7; CR at A-7.

[256] Table E-1, PR at E-3; CR at E-3. We note that ***. Table E-1, PR at E-3; CR at E-3.

[257] Cf. Tables A-2 and E-1, PR at A-7 and E-3; CR at A-7 and E-3.

Mexican respondents provided no meaningful projections for 1995 and 1996. We note, however, that virtually all Mexican drill pipe production after 1992 ***. The historical trends of a *** home market,[258] an *** export market, and the importance of the United States as an export market, lead us to conclude that the U.S. market penetration of drill pipe from Mexico will likely increase to an injurious level.

End-of-period inventories of Argentine drill pipe in the United States *** percent from 1992 to 1994, and by over *** percent in interim 1995 compared to interim 1994.[259] End-of-period inventories of Mexican drill pipe imports in the United States *** short tons in 1994 and *** short tons in interim 1995.[260] Drill pipe inventories of Mexican drill pipe ***.[261] The ***, further support our affirmative threat determination.

We further find that it is likely that the subject imports will enter the United States at prices that will have a depressing or suppressing effect on prices. The record indicates that Argentine and Mexican drill pipe prices (product 12) *** and ***. The average unit value of imports of drill pipe from Argentina and Mexico *** throughout the period 1992 through 1994, as did the average unit value of U.S. shipments of drill pipe from Argentina and Mexico.[262] Domestic drill pipe prices *** overall when comparing the last quarter reported to the first quarter.[263]

We also find that there is a potential for product shifting by the sole Argentine drill pipe producer, Siderca S.A.I.C. Siderca also produces seamless line and standard pipe products, which have recently become subject to an antidumping duty order with margins of 108.13 percent, in the same facilities used to produce drill pipe.[264] We also find that there is a potential for product shifting by both Siderca and the sole Mexican drill pipe producer, Tamsa S.A. Those producers also produce OCTG excluding drill pipe, which will now be subject to final antidumping duty orders as a result of these investigations.

Finally, other adverse trends indicate that there is likely to be material injury by reason of subject imports. The domestic drill pipe industry's performance was characterized by a significantly declining share of domestic consumption, low capacity utilization rates, and fluctuating and inconsistent financial performance. These trends, in addition to the increasing dominance of the market by LTFV imports, indicate that continued increases in subject import penetration will have an injurious effect on the domestic industry.

---

[258] Shipments of drill pipe produced in Mexico ***, reflecting *** in home market shipments. Table E-5, PR at E-4; CR at E-5.

[259] Table A-2, PR at A-7; CR at A-7. We note that ***. PR at II-27; CR at I-35. Furthermore, the level of end-of-period inventories of Argentine drill pipe reported by Siderca S.A.I.C. *** from 1992 to 1994, *** short tons. The ratio of inventories to production *** from 1993 to 1994 to *** percent. In interim 1995 this ratio was *** percent compared to *** percent in interim 1994. Table E-1, PR at E-3; CR at E-3.

[260] Table A-2, PR at A-7; CR at A-7.

[261] Table E-5, PR at E-4; CR at E-5.

[262] Table A-2, PR at A-7; CR at A-7; Table F-1, PR at F-4; CR at F-13.

[263] Table 37, PR at II-48; CR at I-78; Table A-2, PR at A-7; CR at A-7; Table F-1, PR at F-4; CR at F-13. We note that import data for drill pipe from Mexico is from Commerce's official import statistics, since the Commission received an incomplete response to its questionnaires on OCTG from Mexico. PR at II-19; CR at I-24..

[264] We note that the portion of Siderca S.A.I.C.'s capacity that is most likely to be directly affected by the imposition of duties on small-diameter seamless pipe is *** Compare PR at II-29 n.57, CR at I-37 n.57, with Table 21, PR at II-37, CR at I-51.

Based on the foregoing, we find that the record indicates the threat of material injury is real and that actual injury is imminent by reason of imports of drill pipe from Argentina and Mexico.

b. Imports of Drill Pipe from Japan[265]

Information on the record indicates that annual drill pipe production capacity in Japan *** overall from 1992 to 1994, but *** from 1993 to 1994.[266] Capacity utilization *** between 1993 and 1994, although it *** between interim periods.[267] The unused capacity was *** total shipments of Japanese drill pipe directed to the U.S. market in 1992 and 1993.[268] Thus, we conclude that there is substantial underutilized production capacity in Japan, particularly in light of the demonstrated ability of the Japanese mills to alter their product mix in response to changing market conditions.[269]

We further conclude that volume and U.S. market penetration of the Japanese imports will likely increase to an injurious level. Imports of drill pipe from Japan increased by *** percent in terms of quantity from 1992 to 1994. Such imports were lower in interim 1995 than in interim 1994.[270] Market penetration of imports from Japan measured in terms of quantity increased from *** percent of U.S. consumption of drill pipe in 1992 to *** percent in 1994. Market share also increased from *** percent in interim 1994 to *** percent in interim 1995.[271]

Although shipments of Japanese drill pipe exports to the U.S. market are projected to be ***, we find that such projections are inconsistent with the fact that Japanese exports to the U.S. market *** from 1992 to 1994.[272] No further support for increased imports to third-country markets was provided. Moreover, the data provided by the Japanese producers indicate that, from 1992 to 1994, as well as in interim 1995, home market and other export market shipments ***.[273]

We also find that there is a probability that the subject imports from Japan will enter the United States at prices that will have a depressing or suppressing effect on prices for the domestic like product. We note that a rapidly growing segment of drill pipe consumption is the market for HWDP. U.S. shipments of HWDP, which is used in such critical applications as directional drilling, increased throughout the period of investigation.[274] U.S. shipments of Japanese HWDP grew at a far faster rate than did U.S. shipments of domestic HWDP and captured increasingly large shares of this growth market between 1993 and 1994 and between interim 1994 and interim 1995.[275] We further note the *** average unit values of U.S.

---

[265] Commissioner Newquist does not join this section of the opinion.

[266] Cf. Tables A-3 and E-3, PR at A-7 and E-4; CR at A-10 and E-4.

[267] Table E-3, PR at E-4; CR at E-4.

[268] Table E-3, PR at E-4; CR at E-4.

[269] PR at II-31; CR at I-42 and I-43 n.63.

[270] We note that declines in interim periods may be attributable to the pendency of these investigations.

[271] Table A-2, PR at A-7; CR at A-7.

[272] Table E-3, PR at E-4; CR at E-4.

[273] Table E-3, PR at E-4; CR at E-4.

[274] PR at II-7; CR at I-7.

[275] Table F-1, PR at F-4; CR at F-5-13.

shipments of Japanese HWDP.[276] The record indicates that Japanese prices (of HWDP) *** in the most recent period reported and were *** than the U.S. prices in all periods reported. There was an overall decline in domestic drill pipe prices from early 1992 to early 1994.[277]

End-of-period inventories in the United States of drill pipe from Japan decreased somewhat between 1992 and 1994, but increased during the interim periods.[278] The ratio of inventories in Japan to production were relatively substantial in all periods.[279]

We also find that there is a potential for product shifting by the Japanese drill pipe producers since three out of the four reporting mills produce drill pipe as well as casing and tubing.[280] As a result of these investigations, casing and tubing will be subject to final antidumping duty orders.

As discussed above with respect to Argentine and Mexican drill pipe imports, we find the domestic drill pipe industry's performance over the period of investigation is another adverse trend that supports a finding that continued increases in subject imports will have an injurious effect on the domestic industry.

Based on the foregoing, we find that the record indicates the threat of material injury is real and that actual injury is imminent by reason of imports of drill pipe from Japan.

3. No Threat of Material Injury by Reason of Negligible Imports of Drill Pipe from Austria, Italy, Korea, and Spain

With respect to imports of drill pipe from Austria, Korea, and Spain, we found the volume and market share of such imports to be negligible since they were nonexistent over the period. Given the current lack of adverse price effects, we find no probability that any future imports will enter the United States at prices that will have a depressing or suppressing effect. No inventories were reported of such imports during any portion of the period of investigation, and there was no reported capacity or capacity utilization for the production of drill pipe.[281] Thus, we do not find that the threat of material injury is real and that actual injury is imminent by reason of imports of drill pipe from Austria, Korea, and Spain.

With respect to imports of drill pipe from Italy, we also found the volume and market share of those imports to be negligible over the period reviewed. Given the current lack of adverse price effects, we find no probability that any future imports will enter the United States at prices that will have a depressing or suppressing effect. No inventories were reported of Italian imports during any portion of the period of investigation and there was no reported capacity or capacity utilization for the production of drill pipe.[282]

---

[276] Table F-1, PR at F-4; CR at F-5-13.

[277] Table 38, PR at II-48; CR at I-79.

[278] Table A-2, PR at A-7; CR at A-7. We note that *** holds additional inventories of finished drill pipe from Japan ***. PR at II-27; CR at I-35. Finished drill pipe *** accounted for *** of all U.S. shipments of Japanese drill pipe in 1994. Table F-1, PR at F-4; CR at F-7. We further note that Japanese importers reportedly have arranged for the importation of *** short tons of OCTG since March 31, 1995, the vast majority of which ***. PR at 27 & n.55; CR at I-37 & n.55.

[279] Table E-3, PR at E-3, CR at E-4.

[280] PR at II-31; CR at I-42-43.

[281] PR at II-31; CR at I-42-44.

[282] PR at II-29; CR at I-42. There does not appear to be any potential for product shifting since none of the Italian producers of OCTG reported any production of drill pipe during the period of investigation.

For these reasons, we do not find that the threat of material injury is real and that actual injury is imminent by reason of imports of drill pipe from Italy.[283]

4. Effect of Suspension of Liquidation of Entries

Under section 735(b)(4)(B) of the Act, an affirmative threat determination must be accompanied by a determination as to whether the Commission would have made an affirmative material injury determination but for the suspension of liquidation.[284] Thus, we must determine whether we would have made an affirmative material injury determination with respect to imports of drill pipe from Argentina, Japan, and Mexico but for the suspension of liquidation.

This finding determines the date of imposition of duties. If the Commission makes an affirmative "but for" finding, antidumping duties would be imposed on imports of drill pipe from Argentina, Japan, and Mexico from the date of suspension of liquidation of those imports. By contrast, if the Commission makes a negative "but for" finding, duties are imposed only from the time Commerce publishes its final antidumping order forward.

Commerce suspended liquidation of Japanese OCTG imports on February 2, 1995, the date of Commerce's preliminary determination.[285] Because Commerce made preliminary negative determinations with respect to all OCTG imports from Argentina and Mexico, liquidation was suspended with respect to drill pipe imports from those countries on the date of Commerce's final affirmative determinations on June 28, 1995.[286]

We find that the suspension of liquidation did not materially affect the data on which we relied in making our negative present material injury determination with respect to these countries. Accordingly, we conclude that we would not have made an affirmative material injury determination but for the suspension of liquidation.

---

[283] We have also considered the nature of the Austrian and Italian subsidies, pursuant to 19 U.S.C. § 1677(7)(E)(i) and (F)(i)(I). We do not find that the effect of these subsidies (which are not export subsidies) threaten material injury to the domestic drill pipe industry.

[284] 19 U.S.C. § 1673d(b)(4)(B).

[285] 60 Fed. Reg. 6506 (Feb. 22, 1995).

[286] 60 Fed. Reg. 33539 (June 28, 1995) and 60 Fed. Reg. 33567 (June 28, 1995), respectively.

CONCLUSION

In light of the foregoing, we determine that the domestic industry producing OCTG excluding drill pipe is materially injured by reason of subsidized and LTFV imports of OCTG excluding drill pipe from Argentina, Italy, Japan, Korea, and Mexico.[287] [288] We determine that the domestic industry producing casing and tubing is not materially injured nor threatened with material injury by reason of subsidized and LTFV imports of those products from Austria or Spain.[289]

We also determine that the domestic industry producing drill pipe is threatened with material injury by reason of LTFV imports of drill pipe from Argentina, Japan, and Mexico,[290] but that the domestic drill pipe industry is not materially injured nor threatened with material injury by reason of subsidized and LTFV imports of drill pipe from Austria, Italy, Korea, or Spain.

---

[287] Chairman Watson finds that an industry in the United States is not materially injured or threatened with material injury by reason of imports of casing and tubing from Argentina, Austria, Italy, Japan, Korea, Mexico, or Spain. Commissioner Crawford finds that an industry in the United States is not materially injured or threatened with material injury by reason of imports of casing and tubing from Argentina, Austria, Italy, Korea, Mexico, or Spain. Additionally, Commissioner Crawford finds that an industry in the United States is materially injured by reason of imports of casing and tubing from Japan. See Separate and Dissenting Views of Chairman Watson and Separate and Dissenting Views of Commissioner Crawford.

[288] Vice Chairman Nuzum dissents with respect to the finding that the domestic industry producing casing and tubing is materially injured by reason of imports of casing and tubing from Italy. See Separate and Dissenting Views of Vice Chairman Nuzum.

[289] Commissioner Newquist and Commissioner Bragg dissent with respect to the findings as to imports of casing and tubing from Austria and Spain. See Separate and Dissenting Views of Commissioner Newquist and Separate and Dissenting Views of Commissioner Bragg.

[290] Chairman Watson and Commissioner Crawford find that the domestic drill pipe industry is materially injured by reason of imports of drill pipe from Argentina, Japan, and Mexico. See Separate and Dissenting Views of Chairman Watson and Separate and Dissenting Views of Commissioner Crawford.

SEPARATE AND DISSENTING VIEWS OF CHAIRMAN PETER S. WATSON

Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain

Invs. Nos. 701-TA-363-364 and 731-TA-711-717 (Final)

Based on the record in these final investigations, I determine that the industry in the United States producing OCTG excluding drill pipe (hereinafter referred to as "casing and tubing") is not materially injured nor threatened with material injury by reason of the LTFV subject imports of casing and tubing from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, and by reason of subsidized imports from Austria and Italy.[1] I also determine that an industry in the United States producing drill pipe is materially injured by reason of LTFV imports of drill pipe from Argentina, Japan, and Mexico. With respect to like product, domestic industries, condition of the industries, cumulation, negligibility of casing and tubing imports from Austria and Spain, negligibility of drill pipe imports from Austria, Italy, Korea, and Spain, I join the majority determination of my colleagues.

The Volume of Subject Imports

Although the volume of cumulated subject imports increased between 1992 and 1994, from a *** percent share in 1992 to a *** percent share in 1994, the increase of *** percentage points in market share is not significant when considered in the context of a rapidly expanding market. U.S. consumption of casing and tubing increased by *** percent between 1992 and 1994, from *** million short tons in 1992 to *** million short tons in 1994, an increase of approximately *** short tons.[2] By comparison, cumulated imports of casing and tubing from Argentina, Japan, Korea, and Mexico increased by approximately *** short tons over the same period.[3] Thus, the increase in the level of cumulated subject imports was significantly smaller than the overall increase in domestic consumption levels for casing and tubing. Although the corresponding market shares for domestic producers declined by quantity from a *** percent market share in 1992 to an *** percent market share in 1994, such declines are also misleading unless they are considered in the context of the changing market dynamics. Despite the *** percentage point decline in market share, U.S. producers' domestic sales and shipments increased noticeably over the same period.[4] For these reasons, I do not find that the cumulated volume and market shares of subject imports from Argentina, Japan, Korea, and Mexico, as well as the negligible volumes and market shares of imports from Austria, Italy, and Spain are significant.

---

[1] Whether the establishment of an industry in the U.S. is materially retarded by reason of the subject imports is not an issue in these final investigations and will not be discussed further.

[2] Table A-3, CR at A-10, PR at A-7.

[3] Table A-3, CR at A-10, PR at A-7.

[4] Table A-3, CR at A-11, PR at A-7.

The Effect of Subject Imports on Domestic Prices

In evaluating the effect of LTFV and subsidized imports of casing and tubing on domestic prices, I considered whether there has been significant price underselling by subject imports and whether the imports depress prices to a significant degree or prevent price increases that otherwise would have occurred, to a significant degree.[5] Although price appears to be the most important factor in the purchasing decision for OCTG,[6] differences in non-price factors, including quality, inland transportation costs, and lead delivery times, tend to limit the usefulness of the price comparison data.[7] I thus considered the underselling/overselling data in light of these differences in non-price factors. Margins of underselling varied greatly by country and by product. Overall, subject imports oversold the domestic like product in a majority of the cases compared by staff.[8]

Pricing trends reported by U.S. producers and importers of OCTG from subject countries varied from product to product, but generally remained stable over the POI.[9] Although individual product prices varied over the POI, there was no clear overall pattern in U.S. prices. I note however that U.S. producers' unit sales values increased from $594 per short ton in 1992 to $612 per short ton in 1994.[10]

---

[5] 19 U.S.C. §1677(7)(C)(ii).

[6] The majority of distributors that completed purchaser questionnaires regard price as the most important consideration. When asked to list the three most important factors in choosing a supplier for a particular order, 18 of 33 distributors ranked price in first place while seven purchasers placed quality in first place and 3 ranked availability first. CR at I-56, PR at II-41.

[7] The majority of purchasers that completed questionnaires ranked imports from each of the 7 countries as being at least comparable in quality to U.S.-produced OCTG. CR at I-58, PR at II-42. Estimates of inland transportation costs for the majority of producers ranged from 3 to 8 percent of the delivered price while the majority of importers' estimates ranged from 1 to 5 percent. CR at I-57, PR at II-41-42. Reported lead times for delivery of OCTG varied widely. For domestic producers, estimated lead times ranged from 2 days to 3 months. For importers, lead times for products maintained in U.S. inventories ranged from 1 day to 1 week, while lead times for foreign manufacture orders ranged from 3 to 3-1/2 months for Argentina, 1-1/2 to 5 months for Mexico, 3 to 5 months for Austria and Spain, 2 to 6 months for Italy and Korea, and 4 to 8 months for Japan. While the majority of all sales of imported OCTG from Argentina and Mexico are made from inventories maintained in the United States, less than half of all sales of imports from Italy, Korea, and Japan, and no sales of imports from Austria and Spain are made from inventories in the United States. CR at I-57-58, PR at II-42.

[8] The data show that prices of cumulated imports from Argentina, Japan, Korea, and Mexico were lower than domestic prices in 54 quarters and higher in 93 quarters. Figures derived from Tables 23-36, CR at I-64-77, PR at II-47-48.

[9] Figure 1, EC-S-080 (July 21, 1995) at 1-8.

[10] Figures derived from Table A-9, CR at A-17, PR at A-12. Although it is not clear whether this increase in U.S. producers' unit sales values is due to increasing sales prices or a shift in the product mix to a higher priced domestic like product, in either case, the domestic industry has been able to increase its sales revenues.

The staff's economic model estimates of price suppression by reason of cumulated subject imports was relatively low, ranging from *** percent to *** percent.[11] Based on the above factors, I find that neither the cumulated subject imports of casing and tubing from Argentina, Japan, Korea and Mexico, nor the negligible imports from Austria, Italy, and Spain have had significant adverse effects on domestic prices.

Impact on the Domestic Industry

I do not find an adverse impact on the domestic casing and tubing industry by reason of the cumulated subject imports, or by reason of subject imports found to be negligible. Although the domestic industry's operating losses were significant, there is an insufficient causal link between the performance of the domestic industry and the subject imports. Domestic producers' operating losses diminished from 1992 to 1994, as sales quantities and unit sales values improved[12] concurrently with increases in demand for casing and tubing.[13] Demand for casing and tubing increased by approximately *** short tons from 1992 to 1994, with U.S. producers capturing the majority of this increase.[14] While U.S. producers' operating losses are clearly significant, such losses have been decreasing despite the modest increases in subject imports.[15] Other factors may have contributed to such losses.[16] In

---

[11] Figures derived from EC-S-079 (July 20, 1995) at 4. In assessing the price effects of LTFV and subsidized imports, I also considered the elasticity of demand for the domestic like product, the elasticity of domestic supply, the substitutability between subject imports and the domestic like product, and other competitive factors. I find that the domestic market for casing and tubing is only moderately price sensitive. Although demand for casing and tubing is relatively inelastic (i.e., demand does not change much with changes in price) and the domestic product and subject imports appear to be reasonably good substitutes, the supply elasticity of the domestic industry is relatively high and the degree of competition within the domestic industry appears to be significant. The domestic mini-mills appear to be a significant price-restraining competitive factor in the domestic industry. Based on these factors, I conclude that the increasing, but insignificant, quantity of subject imports over the period examined have not had adverse price effects on the domestic industry.

[12] Table A-9, CR at A-17, PR at A-12.

[13] The respondents indicate that between 1984 and 1992, there was a "severe depression" in demand for OCTG caused by low oil and gas prices. Respondents' Joint Prehearing Brief at 1. Evidence indicates that the annual consumption of OCTG depends on the level of drilling activity, which is determined by a number of factors, including the price of oil and gas. Oil drilling activities in the U.S. declined from 1991 to 1992, but increased in 1993 and 1994. An increase in natural gas prices in 1993 in response to two extremely cold winters on the East Coast encouraged this increase in drilling activity. EC-S-066 (June 20, 1995) at 11.

[14] Of this total, U.S. producers captured approximately *** short tons, while all subject imports captured approximately *** short tons. Thus, U.S. producers captured approximately *** percent of this increase, while subject imports captured approximately *** percent and non-subject sources captured the remaining *** percent. Figures derived from Table A-3, CR at A-10-11, PR at A-7.

[15] The market shares of cumulated subject imports increased from *** to *** percent from 1992 to 1994, while the domestic industry experienced a significant improvement over the same period, as indicated by the following: the number of U.S. production workers increased from 3,317 to 4,201; domestic sales quantities improved by 27.3 percent; operating losses were reduced by approximately 50 percent; domestic hourly compensation increased from $17.70 to $18.26; U.S. producers' domestic shipments increased by *** percent; productivity improved from *** in 1992 to *** in 1994. Tables A-3 and A-9, CR at A-10 and A-17, PR at A-7 and A-12.

addition, the revenue effects on the domestic industry by reason of subject casing and tubing was relatively minimal.[17] Thus, I find that there is an insufficient causal link between such losses and the subject imports.

Imports of Casing and Tubing from Italy are Negligible

I also find that the volume and market share of Italian imports of casing and tubing are negligible and have no discernable adverse impact on the domestic industry. Market share of Italian imports ranged from an insignificant figure in 1992 to a *** percent share in 1993 to a *** percent share in 1994 to a *** percent share in 1995. In addition, the record demonstrates that the spike in the 1993 market share was caused by an isolated shipment of OCTG which was *** due to extraordinary circumstances.[18]

No Threat of Material Injury by Reason of LTFV and Subsidized Imports

In assessing whether a domestic industry is threatened with material injury by reason of imports from two or more countries, the Commission has discretion to cumulate the volume and price effects of such imports if they compete with each other and the domestic like product.[19] In addition, the Commission considers whether the imports are increasing at similar rates in the same markets, whether the imports have similar margins of underselling or pricing patterns, and the probability that imports will enter the United States at prices that would have a depressing or suppressing effect on domestic prices of that merchandise.[20] I have determined to exercise my discretion not to cumulate any of the subject imports in these investigations for a number of reasons. First, subject imports from Japan do not compete to a large extent with subject imports from Argentina, Austria, Italy, Korea, Mexico, and Spain.[21] Second, as discussed above in the pricing section, there is a noticeable lack of uniformity of pricing trends among all the subject countries.[22] Third, the volume and market penetration trends vary somewhat among the subject countries.[23] Fourth, the market shares of imports from Austria, Italy, and Spain were extremely low during the period examined.[24]

---

[16] (...continued)

[16] There appears to be a shift in the structure of the domestic industry away from integrated producers of OCTG (such as USX) to lower cost minimills. Respondents' Joint Prehearing Brief at 4-6. This shift may be contributing to the level of competition among domestic producers.

[17] For casing and tubing, revenue suppression by the cumulated imports ranged from *** to *** percent. Figures derived from EC-S-079 (July 20, 1995) at 4.

[18] ***. Dalmine's Pre-Hearing Brief at 4-6.

[19] 19 U.S.C. §1677(7)(F)(iv).

[20] See Torrington v. United States, 790 F. Supp. 1161, 1172 (Ct. Int'l Trade 1992), aff'd, 991 F.2d 809 (Fed. Cir. 1993); Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (Ct. Int'l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (Ct. Int'l Trade 1988).

[21] See Table 21, CR at I-51, PR at II-37.

[22] See EC-S-080 (July 21, 1995)

[23] Market share for Argentina declined overall from 1992 to 1994 while market shares for imports from Japan, Korea, and Mexico all increased over the same period. Table A-3, CR at A-10, PR at A-7.

[24] Table A-3, CR at A-10, PR at A-7.

Section 771(7)(F) of the Act directs the Commission to determine whether a U.S. industry is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent." The Commission is not to make such a determination "on the basis of mere conjecture or supposition."[25] The increase in demand for OCTG casing and tubing over the POI, and the consequently favorable and improving performance of the domestic industry were significant factors weighing against a finding of a threat of material injury. In addition, the record does not indicate that subject imports have had significant adverse price effects in this market. With these factors in mind, I considered the subject imports from each country on a non-cumulated basis.

Regarding Argentina, although exports to the U.S. *** from 1992 to 1994, exports to other markets ***, and shipments to the home market ***.[26] In addition, end-of-period inventory levels of U.S. importers *** while market shares of subject imports in the U.S. market ***.[27] Production capacity *** and capacity utilization *** in 1994 from *** percent in 1992.[28]

Regarding subject imports from Austria, Italy, and Spain, the volumes and market shares of imports from these countries were negligible over the POI.[29] Importers' inventory levels for all three countries were low and declining.[30] For Austria, production and production capacity ***, while capacity utilization rate *** in 1994.[31] Although Austrian exports to the U.S. *** from 1992 to 1994, Austrian market share in the U.S. never exceeded *** percent over the same period.[32] For Italy, production and production capacity *** between 1992 and 1994, while the capacity utilization rate *** in 1994.[33] While the *** in Italian OCTG exports to the U.S. may be significant on a percentage basis, on an absolute basis, the volume was not significant. Although Italian market share *** of the U.S. market during 1993, this appears to be a one-time event.[34] For Spain, although production and capacity *** over the POI, the 1994 figures are still relatively small when compared to the overall size of the U.S. market.[35] Spanish OCTG market penetration in the U.S. never exceeded *** percent between 1992 and 1994.[36]

---

[25] 19 U.S.C. §1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984), aff'd sub nom., Armco, Inc. v. United States, 760 F.2d 249 (Fed. Cir. 1985).

[26] Table E-2, CR at E-3, PR at E-3.

[27] Table A-3, CR at A-10, PR at A-7.

[28] Table E-2, CR at E-3, PR at E-3.

[29] Table A-3, CR at A-10, PR at A-7.

[30] End-of-period inventories of U.S. importers of Spanish OCTG were *** in 1994; Austrian OCTG declined to *** short tons in 1994; and Italian OCTG declined to *** short tons in 1994 from *** short tons in 1992. Table A-3, CR at A-10, PR at A-7.

[31] Table 14, CR at I-38, PR at II-30.

[32] Table A-3, CR at A-10, PR at A-7.

[33] Table 15, CR at I-39, PR at II-30.

[34] Italian Respondent's Post-Hearing Brief at 2-3.

[35] Compare Table 19, CR at I-41, PR at II-35 and Table A-3, CR at A-10, PR at A-7.

[36] Table A-3, CR at A-10, PR at A-7.

Regarding subject imports from Japan, end-of-period inventories of U.S. importers, production, and production capacity all declined over the POI.[37] Capacity utilization increased to *** percent in 1994, and to *** percent during interim 1995.[38] Although exports to the U.S. approximately doubled over the POI, given the capacity utilization rate and the lack of any current significant adverse price effects, imports from Japan do not pose an imminent threat to the domestic industry.[39]

Regarding subject imports from Korea, production and capacity both increased noticeably, but was relatively minor on an absolute basis.[40] Although exports to the U.S. increased along with production, capacity utilization levels increased significantly, to *** percent in 1994 from *** percent in 1992.[41] Based on projected declines in production capacity in 1995 and the current capacity utilization levels, it is unlikely that imports from Korea will be able to make a significant adverse impact on the U.S. industry in the near future.

Regarding subject imports from Mexico, production increased by approximately *** short tons between 1992 and 1994 while production capacity declined by approximately *** short tons between 1992 and 1994, and capacity utilization levels ***.[42] Exports to the U.S. increased *** over the same period.[43] Despite such increases, when considered in the context of the U.S. market which is experiencing a significant surge in demand, I find that the likelihood of non-cumulated Mexican casing and tubing imports having a significantly adverse effect on the domestic industry in the near future to be minimal.

Accordingly, for the reasons stated above, I find that the domestic OCTG casing and tubing industry is not threatened with material injury by reason of subject imports from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain.

Material Injury by Reason of LTFV Imports of Drill Pipe from Argentina, Japan, and Mexico.

In making its material injury determination, the Commission is required to consider the volume of imports, their effect on prices for the like product, and their impact on domestic producers of the like product.[44] For the reasons discussed in the Views of the Commission, I cumulate imports of drill pipe from Argentina and Mexico but not Japan.

---

[37] Tables A-3 and E-4, CR at A-10, PR at A-7, and CR at E-4, PR at E-3.

[38] Table E-4, CR at E-4, PR at E-3.

[39] Id.

[40] Table 17, CR at I-40, PR at II-30.

[41] Id.

[42] Table E-6, CR at E-5, PR at E-3.

[43] Id.

[44] 19 U.S.C. §1677(7)(B)(i). However, such considerations may only be in the context of U.S. production operations. The Commission may also consider such other economic factors as are relevant to the determination, but must identify each such factor and explain its relevance to the determination. 19 U.S.C. §1677(7)(B).

The Volume of Subject Imports

The increase in the volume and market share of subject imports of drill pipe was significant. Cumulated subject imports from Argentina and Mexico increased from a *** percent share in 1992 to a *** percent share in 1994.[45] Shares for Japanese imports increased from a *** percent share in 1992 to a *** percent share in 1994.[46] Conversely, domestic producers' market share declined significantly, from a *** percent share in 1992 to a *** percent share in 1994, a decline of *** percentage points.[47] Thus, it appears that all of the market share gains by the cumulated subject imports from Argentina and Mexico, as well as imports from Japan came at the expense of the domestic producers. In addition, staff's economic estimates of volume suppression by reason of cumulated subject imports from Argentina and Mexico ranged from *** percent to *** percent, while volume suppression by reason of Japanese imports of drill pipe ranged from *** percent to *** percent.[48] For these reasons, I find a significant volume effect by reason of the subject imports from Argentina, Japan, and Mexico.

Effect of Subject Imports on Domestic Prices

In evaluating price effects, I considered the elasticity of demand for the domestic like product, the elasticity of domestic supply, the elasticity of substitution, and other competitive factors. I find that the domestic market for drill pipe is also moderately price sensitive. As with casing and tubing, I find the demand for drill pipe to be relatively inelastic and the domestic product and subject imports appear to be reasonably good substitutes. In addition, the supply elasticity of the domestic industry is relatively high and the degree of competition within the domestic industry appears to be significant. However, in light of the *significant* volumes and increases in drill pipe imports, I find that the cumulated drill pipe imports from Argentina and Mexico, as well as the drill pipe imports from Japan have had adverse price effects on the domestic industry. [49] [50]

---

[45] Table A-2, CR at A-7, PR at A-7.

[46] Id.

[47] Id.

[48] Figures derived from EC-S-079 (July 20, 1995) at 4.

[49] The economic estimates of price suppression caused by cumulated imports from Argentina and Mexico ranged from *** to *** percent while comparable figures for Japanese imports ranged from *** to *** percent. Figures derived from EC-S-079 (July 20, 1995) at 4.

[50] I also considered the underselling/overselling data and any other evidence of price depression and/or suppression. With respect to prices reported by U.S. producers and importers, subject imports from Argentina and Mexico undersold the domestic like product in 2 out of 9 instances. Table 37, CR at I-78, PR at II-48. With respect to imports from Japan, underselling was evident in all 3 comparisons made. Table 38, CR at I-79, PR at II-48. Thus, the cumulated subject imports from Argentina and Mexico appear to be overselling most often whereas the subject imports from Japan appear to be predominantly underselling the domestic like product. In addition, domestic prices for products 12 and 13 both declined noticeably over the POI. Tables 37 and 38, CR at I-78-79, PR at 48.

Impact on the Domestic Industry

I find an adverse impact on the domestic drill pipe industry by reason of the cumulated subject imports from Argentina and Mexico as well as by subject imports from Japan. Despite the significant increase in demand for drill pipe between 1992 and 1994,[51] U.S. drill pipe prices declined noticeably.[52] While the domestic producers were able to capture some of the increase in domestic demand for drill pipe, as reflected in the increase in their sales quantities and domestic shipments, the subject imports captured the majority of the increased demand.[53] In addition, the improvement in U.S. producers' gross profits and operating income is attributable largely to improvements in unit COGS between 1992 and 1994.[54] While U.S. producers' production and production capacity improved over the POI, the increases were minor when considered in the context of the increasing market demand.[55] In addition, revenue suppression figures were relatively high for Japan. Revenue suppression by reason of cumulated imports from Japan ranged from *** percent to *** percent while comparable figures for imports from Argentina and Mexico ranged from *** percent to *** percent.[56] Based on the above considerations, I find an adverse impact on the domestic drill pipe industry by reason of the cumulated subject imports from Argentina and Mexico as well as by subject imports from Japan.

---

[51] U.S. consumption of drill pipe increased by *** percent between 1992 and 1994, from *** short tons in 1992 to *** short tons in 1994. Table A-2, CR at A-7, PR at A-7.

[52] Tables 37 and 38, CR at I-78-79, PR at II-48.

[53] See Table A-2, CR at A-7, PR at A-7.

[54] Table A-7, CR at A-15, PR at A-10.

[55] Table A-2, CR at A-7, PR at A-7.

[56] Figures derived from EC-S-079 (July 20, 1995) at 4. While the revenue suppression figures for cumulated imports from Argentina and Mexico are relatively modest, this was the only factor weighing against an affirmative determination on cumulated imports of drill pipe from Argentina and Mexico.

SEPARATE AND DISSENTING VIEWS OF VICE CHAIRMAN JANET A. NUZUM

Investigations Nos. 701-TA-363-364
and 731-TA-711-717 (Final)

I join the majority of my colleagues in most of these determinations. This opinion presents my separate views on the lack of present injury to domestic drill pipe producers by reason of drill pipe imports from Argentina, Japan and Mexico.

I disagree with the majority of my colleagues in two cases, instead making negative determinations with respect to both the antidumping and the countervailing duty investigations of imports of casing and tubing from Italy. This opinion also presents my dissenting views with respect to those findings.

I. Separate views on imports of drill pipe from Argentina, Mexico and Japan: present injury analysis.

Based on the record in these final investigations, I find that the U. S. industry producing drill pipe is not materially injured by reason of subject imports from Argentina, Japan and Mexico. As explained in the Views of the Commission, I did not cumulate the subject imports from Japan with the subject imports from Argentina and Mexico, but did cumulate imports from the latter two countries with each other.

Imports of drill pipe from Japan increased between 1992 and 1994, and between January-March 1994 and January-March 1995, in terms of both volume and market share.[1] These increases reflect both the low initial level of drill pipe imports in 1992 and the fluctuating, but generally increasing, level of drill pipe consumption in the United States over this period of time.[2]

Similarly, the volume of drill pipe imports from Argentina and Mexico *** between 1992 and 1994. These imports then *** between January-March 1994 and January-March 1995. This trend, although differing in magnitude, was in accord with the trend in apparent U.S. consumption of drill pipe over this period.[3]

On balance, I find that increases in imports of drill pipe from Japan, as well as from Argentina and Mexico, reflect increased consumption during the period examined. In the final full year examined -- 1994 -- both the cumulated imports and the imports from Japan increased as domestic shipments declined. Although this factor did not ultimately lead to me conclude that the domestic industry is experiencing present material injury by reason of the subject imports, it did contribute to my affirmative threat determinations.

---

[1] Imports of drill pipe from Japan increased from *** tons in 1992 to *** tons in 1994, and from *** tons to *** tons in the interim periods. Although the market share held by drill pipe from Japan also increased between 1992 and 1994 and between interim periods, I note that the share held in January-March 1995 was virtually identical to that held in 1992. Table A-2, CR at A-7, PR at A-7.

[2] Id.

[3] Table A-2, PR at A-7; CR at A-7. Imports of drill pipe from Argentina and Mexico increased from *** short tons in 1992 to *** short tons in 1994, but fell from *** short tons to *** short tons between the interim periods. Similar trends --increases from low levels between 1992 and 1994, followed by noticeable declines between the interim periods -- were apparent in the value of drill pipe imports from Argentina and Mexico and in the market share (by volume and by value) held by these imports.

U.S. prices for drill pipe declined during the period examined.[4] Available data indicate that prices of Argentine and Mexican drill pipe also declined, but consistently oversold comparable domestic products.[5] Limited observations of Japanese drill pipe prices showed no particular trend, and small margins of underselling.[6] Cost data for the domestic industry reveal that costs of production for drill pipe declined overall during 1992-94.[7] Indeed, costs of goods sold as a percent of revenues declined in 1993 and were stable in 1994. It is unclear, therefore, that competition from either Japanese drill pipe or Argentine and Mexican drill pipe was a significant factor in the observed price declines. The record, therefore, does not support a conclusion of either significant underselling or significant price suppression/depression for either imports from Japan or the cumulated imports from Argentina and Mexico.

Despite the volumes and increases in volumes of the subject imports, I conclude that the domestic industry producing drill pipe is not experiencing present material injury by reason of the subject imports. As discussed in the Views of the Commission, the financial and operating performance of the domestic drill pipe industry are currently favorable.[8] However, increases in the volume of subject imports, the decline in domestic shipments experienced in 1994,[9] and the erosion of domestic market share are indications of the vulnerability of this industry to continued increases in LTFV imports from Argentina, Japan and Mexico.

II. Dissenting views on imports of casing and tubing from Italy: application of negligible imports exception to cumulation.

The application of the negligible imports exception to cumulation begins with an analysis of the volume of imports being examined. The volume of U.S. imports of Italian casing and tubing increased from a minuscule base from 1992 to 1993,[10] but then declined substantially in 1994.[11] These imports virtually disappeared from the market in interim 1995, with the imposition of preliminary bonding requirements.[12] Italian market share by volume

---

[4] Tables 37 and 38, CR at I-78, PR at II-48.

[5] Table 37, CR at I-78, PR at II-48.

[6] Table 38, CR at I-79, PR at II-48.

[7] See Table A-7, CR at A-16, PR at A-10.

[8] Operating income increased by 58.8 percent between 1992 and 1994 and by 14.7 percent between interim 1994 and 1995. Table A-7, PR at A-10; CR at A-15.

[9] The quantity of domestic sales declined by 12.8 percent between 1993 and 1994 and by 23.0 percent between the interim periods. Table A-7, PR at A-10; CR at A-15.

[10] Contributing to this increase in imports of casing and tubing from Italy in 1993 was *** Prehearing brief of Italian respondents at 4-5. This would appear to be an usual circumstance that did not reflect normal marketing of Italian casing and tubing in the U.S. market.

[11] These imports totalled only *** tons in 1992, but jumped to *** tons in 1993. The volume of Italian casing tubing then fell nearly *** to *** tons in 1994. Table A-3, CR at A-10, PR at A-7.

[12] See Table A-3, CR at A-10, PR at A-7. See also CR at I-3, PR at II-3 (Commerce's preliminary countervailing duty determination for Italy issued on Dec. 2, 1994, and the preliminary LTFV determination for Italy issued on Feb. 2, 1995).

also increased in 1993, although it remained small, and declined to less than *** percent in 1994.[13]

The degree of competition between Italian and domestic product appears to be attenuated by channels of distribution.[14] The record indicates that the imports from Italy are concentrated in larger diameters.[15] Distributors that handle the bulk of imports from Italy appear to have limited access to domestic product of similar dimensions.[16]

I have closely examined the pricing data for Italy for evidence of any significant adverse impact on the domestic industry. I note that the underselling observed was for products with relatively small volumes of U.S. sales, whereas the overselling was for products with relatively large volumes of U.S. sales.[17] This suggests that underselling by Italy had a relatively minor competitive impact on prices for the like product. Although the record contains isolated instances of underselling and price competition,[18] any impact on domestic prices of the low volume of imports from Italy would necessarily be small. On balance, the evidence does not persuade me that imports of casing and tubing from Italy had a discernible adverse effect on domestic prices for the like product.

Based on the consistently small market share of imports from Italy which declined in the most recent full year examined, and lack of convincing evidence of an adverse price effect, I find that imports of casing and tubing from Italy were negligible and had no discernible adverse impact on the domestic industry. I therefore decline to cumulate the imports of casing and tubing from Italy with the imports from other subject countries.

Having decided not to cumulate, I now turn to an analysis of the impact of the imports of casing and tubing from Italy on the domestic industry. Based on their consistently low quantities[19] and market share,[20] I find that the volume of imports of Italian casing and tubing was not significant. As I observed above, Italian casing and tubing[21] appears to have had no adverse impact on prices for the like product, notwithstanding the underselling. I therefore conclude that the underselling was not significant, and that Italian prices did not significantly depress or suppress domestic prices.

Although I find that the cumulated subject imports are causing material injury to the domestic producers of casing and tubing, I do not find that imports from Italy, considered alone, have any such injurious impact. The performance of the domestic industry, although poor, was not affected to any significant degree by imports of Italian casing and tubing.

---

[13] Italian market share was *** in 1992, then increased to *** in 1993. The volume of Italian casing tubing declined in 1994 at a significantly greater rate than did apparent consumption. Italian market share in 1994 was therefore only ***. Table A-3, CR at A-10, PR at A-7.

[14] It is true that imports from Italy were neither isolated not sporadic. See CR at I-50, PR at II-37; CR at I-52, PR at II-38.

[15] Table 21, CR at I-51, PR at II-37.

[16] Prehearing brief of Italian respondents at 11-13.

[17] Compare tables 23 and 36 (consistent underselling, products 1a and 11a) with table 35 (consistent overselling, product 10). See also tables 25 and 32 (mixed underselling/overselling, products 3a and 7a).

Some of the underselling is attributed to the *** See Prehearing brief of Italian respondents at 20.

[18] See CR at I-93-96, PR at II-51-55. I note that these lost sales/revenue allegations were not specifically confirmed, although the purchases indicated that they likely were valid.

[19] See supra n.11.

[20] See supra n.13.

[21] See tables 39, 40, 44, 46. See also table 45.

I also conclude that the domestic industry is not threatened with material injury by reason of imports of casing and tubing from Italy. The volume of imports has been insignificant, and declined in the most recent full year examined.[22] Although exports to the United States may well increase somewhat with the imposition of antidumping and countervailing duties on other imported casing and tubing, it would be speculative to presume that the traditionally small volumes of Italian casing and tubing will imminently rise to injurious levels.

The imports likewise did not depress or suppress, to a significant degree, prices for the domestic product. The record provides no basis for concluding that future price effects of Italian casing and tubing will likely have such a price depressing or suppressing effect, even at somewhat increased volumes.

Italian capacity to produce casing and tubing has declined in recent years, and capacity utilization increased slightly.[23] The United States was a relatively minor market for Italian casing and tubing in 1994. Again, excess capacity may be utilized in increased production for the U.S. market, but it would be speculative to conclude that imports will rise to injurious levels. Importers' inventories of Italian OCTG were very low.[24]

In sum, I find that the imports of casing and tubing from Italy were of such minor volume and impact on domestic prices and revenues, that the domestic industry producing casing and tubing is neither materially injured nor threatened with material injury by reason of subject imports from Italy.

---

[22] See supra n.11.

[23] Information on the Italian industry producing casing and tubing is presented in table 15, CR at I-39, PR at II-30. These data do not break out drill pipe, which was a tiny portion of Italian OCTG exports. Compare data on imports from Italy in table A-2 (drill pipe only) with table A-3 (other OCTG). CR at A-7 and A-10, PR at A-7.

[24] Table 12, CR at I-36, PR at II-28.

SEPARATE AND DISSENTING VIEWS OF COMMISSIONER DON E. NEWQUIST

I concur with my colleagues that the domestic industry producing casing and tubing is currently experiencing material injury by reason of imports of this product which are subsidized and/or sold in this country at less than fair value, but, unlike the majority of my colleagues, I have reached my affirmative determinations by cumulating imports from all subject countries.

Similarly, while I concur with my colleagues that the domestic industry producing drill pipe is threatened with material injury by reason of subject imports, unlike my colleagues, I reach that determination by cumulating imports from Argentina, Japan and Mexico. Therefore, since my analytical framework differs significantly from that of my colleagues and causes me to reach different cumulation determinations, I present separate views on this issue.

I. CUMULATION

A. Legal Framework

The statute requires that I cumulatively assess the subject imports if: (i) there is competition between the subject imports themselves and the domestic like product;[1] and (ii) no one country's imports are negligible and without discernible adverse impact on the domestic industry.[2]

As I explained in the Flat-Rolled Carbon Steel investigations,[3] I view this language to require scrutiny of primarily geographic and temporal competition between the subject imports and the domestic like products; assessing competition on the basis of the substitutability of these products is a lesser consideration.[4] Nowhere does the cumulation provision state that competition is a function of interchangeability based upon the imported

---

[1] 19 U.S.C. § 1677(7)(C)(iv)(I). In addition, I need find only a "reasonable overlap" of competition. Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[2] 19 U.S.C. § 1677(7)(C)(v).

[3] USITC Pub. 2616 (August 1993).

[4] My interpretation of this language also reflects my interpretation of the Commission's traditional four factor "competition for cumulation" test. This four factor test has generally been articulated as follows:

> (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
> (2) the presence of sales or offers to sell in the same geographic markets of imports from different countries and the domestic like product;
> (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and
> (4) whether the imports are simultaneously present in the market.

See, e.g., Certain Cast Iron Pipe Fittings from Brazil, Korea, and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

and domestic products' characteristics and uses. Such competition is appropriately addressed in the like product analysis.[5]

In my view, once a like product determination is made, that determination establishes some inherent level of fungibility within that like product. Only in exceptional circumstances could I anticipate finding products to be "like," and then turn around and find that, for purposes of cumulation, there is no reasonable overlap of competition based upon some roving standard of fungibility.

In these final investigations, I concur with the majority analysis finding that a reasonable overlap of competition exists between imports of casing and tubing from Argentina, Italy, Japan, Korea, and Mexico and the domestic like product. However, unlike my colleagues, I do not find that imports from Austria and Spain are negligible and without discernible adverse effects within the meaning of the statute.[6] For the reasons stated above, I also disagree with my colleagues' finding that imports of drill pipe from Japan do not compete on the basis of a lack of a sufficient degree of fungibility between subject imports and the domestic like product. I address each of these points separately below.

B. Casing and Tubing

1. Austria

a. Reasonable Overlap of Competition

I find that there is a reasonable overlap of competition between imports from Austria, the subject imports, and the domestic like product. Austrian OCTG was imported into the U.S. in every full year of the period of investigation, and was concentrated in the same geographic regions as domestic OCTG and imports from the other subject countries.[7]

b. Negligibility

I decline to find Austrian imports of OCTG to be negligible. Imports of OCTG from Austria surged from *** short tons in 1992 to *** short tons in 1993, before dropping slightly to *** short tons in 1994.[8] By quantity, Austrian OCTG accounted for *** of domestic consumption in 1992, *** in 1993, and *** in 1994.[9] In interim 1994, the Austrian share of domestic consumption stood at ***.[10] These levels of import penetration correspond to similar levels which I have previously found not to be negligible in investigations involving related products.[11]

---

[5] See 19 U.S.C. § 1677(10).

[6] I note that the dumped imports of casing and tubing from Austria and Italy are precisely those covered by the countervailing duty investigation. Accordingly, cross-cumulation, which our reviewing court has held to be mandated by the statute, is not an issue in these investigations. See Bingham & Taylor v. United States, 673 F. Supp. 793 (Ct. Int'l Trade 1986), aff'd, 815 F.2d 1482 (Fed. Cir. 1987).

[7] PR at II-37 and II-38; CR at I-50 and I-52.

[8] Table A-3, PR at A-7; CR at A-10.

[9] Id.

[10] Id.

[11] Certain Carbon Steel Butt-Weld Pipe Fittings, USITC Pub. 2870 (April 1995); See also, Certain Flat-Rolled Carbon Steel Products, USITC Pub. 2664 (August 1993).

Based on the foregoing, I find it appropriate to cumulate imports from Austria.

2. Spain

a. Reasonable Overlap of Competition

I find that there is a reasonable overlap of competition between imports from Spain, the subject imports, and the domestic like product. Spanish OCTG was imported into the U.S. in every year of the period of investigation, and was concentrated in the same geographic regions as domestically-produced OCTG and imports from the other subject countries.[12]

b. Negligibility

I decline to find imports of OCTG from Spain to be negligible. Imports of OCTG from Spain increased dramatically from *** short tons in 1992 to *** short tons in 1993, before dropping slightly to *** short tons in 1994.[13] By quantity, Spanish OCTG accounted for *** of domestic consumption in 1992, *** in 1993 and 1994, and increased its share of the market during the interim 1994-95 period.[14] These levels of import penetration correspond to similar levels which I have previously found not to be negligible in investigations involving related products.[15]

Based on the foregoing, I find it appropriate to cumulate imports from Spain.

C. Drill Pipe

I concur with my colleagues' finding that imports of drill pipe from Austria, Italy, Korea and Spain are negligible. I also concur with my colleagues' determination that drill pipe imports from Argentina, Japan and Mexico were all simultaneously present and sold in the same geographic markets within the United States, and find that imports from those three countries are not negligible and without discernible adverse effect.[16]

However, based on my analytical framework as set forth above, I disagree with my colleagues' finding that a lack of sufficient fungibility precludes cumulation of Japanese imports. In these investigations the Commission's like product determination established an inherent level of fungibility between the Japanese product, other subject imports, and the domestic like product. In fact, the Commission carefully considered the relative distinctions between heavy-weight drill pipe ("HWDP") and standard-weight drill pipe ("SWDP") in its like product determination and concluded that such distinctions were not sufficient to warrant a separate like product finding. See supra notes 29-32 and accompanying text. I therefore

---

[12] PR at II-37 and II-38; CR at I-50 and I-52.

[13] Table A-3, PR at A-7; CR at A-10.

[14] Id.

[15] Certain Carbon Steel Butt-Weld Pipe Fittings, USITC Pub. 2870 (April 1995); See also, Certain Flat-Rolled Carbon Steel Products, USITC Pub. 2664 (August 1993).

[16] Imports of drill pipe from Japan increased by *** in terms of quantity from 1992 to 1994, and Japanese imports accounted for an increasing portion of domestic consumption between 1992 and 1994, reaching *** market share in 1994. Table A-2, PR at A-7; CR at A-7. Such import penetration levels preclude me from considering Japanese imports to be negligible.

fail to comprehend how, for purposes of cumulation, my colleagues reached the exact opposite conclusion regarding the same distinctions between HWDP and SWDP.

Based on the inherent fungibility of Japanese imports with the domestic like product and other subject imports, and in light of the fact that Japanese imports simultaneously competed in the same geographic markets with the domestic like product and with Argentine and Mexican imports, I conclude that a reasonable overlap of competition exists to warrant cumulation of Japanese imports with Argentine and Mexican imports.

SEPARATE AND DISSENTING VIEWS OF COMMISSIONER CAROL T. CRAWFORD

I concur for the most part with my colleagues in the majority regarding discussion of like product, domestic industries, condition of the industries, negligibility of casing and tubing imports from Austria and Spain, and cumulation of drill pipe imports. Certain differences are noted in the majority opinion. My analytical framework and full separate and dissenting views and my views on like product, cumulation, and injury are presented here.

I. SUMMARY

Two Like Products. I concur with the majority that there are two like products, consisting of casing and tubing, and of drill pipe.

Casing and Tubing. I cumulate subject imports from Argentina, Korea, and Mexico, but do not cumulate subject imports from Japan. I find subject imports from Austria, Italy, and Spain to be negligible.

On the basis of information obtained in these final investigations, I determine that an industry in the United States is materially injured by reason of imports of casing and tubing from Japan found by the Department of Commerce ("DOC") to be sold at less-than-fair-value ("LTFV"). I further determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports casing and tubing from Argentina, Austria, Italy, Korea, Mexico, or Spain that are subsidized or sold at LTFV.

Drill Pipe. I concur with the majority and cumulate subject imports from Argentina and Mexico, but do not cumulate subject imports from Japan. Because there were no subject imports of drill pipe in 1994 from Austria, Italy, Korea, or Spain, I make a negative determination regarding these countries.

On the basis of information obtained in these final investigations, I determine that an industry in the United States is materially injured by reason of imports of drill pipe from Argentina, Japan and Mexico sold at LTFV. I further determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of drill pipe from Austria, Italy, Korea, or Spain that are subsidized or sold at LTFV.

II. ANALYTICAL FRAMEWORK

In determining whether a domestic industry is materially injured by reason of the subsidized or LTFV imports, the statute directs the Commission to consider:

(I) the volume of imports of the merchandise which is the subject of the investigation,

(II) the effect of imports of that merchandise on prices in the United States for like products, and

(III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States . . . .[1]

In making its determination, the Commission may consider "such other economic factors as are relevant to the determination."[2] In addition, the Commission "shall evaluate all relevant economic factors which have a bearing on the state of the industry ... within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[3]

The statute directs that we determine whether there is "material injury by reason of the dumped or subsidized imports." Thus we are called upon to evaluate the effect of dumped or subsidized imports on the domestic industry and determine if they are causing material injury. There may be, and often are, other "factors" that are causing injury. These factors may even be causing greater injury than the dumping or the subsidies. However, the statute does not require us to weigh or prioritize the factors that are independently causing material injury to the domestic industry. Rather, the Commission must determine whether any injury "by reason of" the dumped or subsidized imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effects of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry."[4] It is important, therefore, to assess the effects of the dumped or subsidized imports in a way that distinguishes those effects from the effects of other factors unrelated to the dumping or subsidies. To do this, I compare the current condition of the industry to the industry conditions that would have existed without the dumping or subsidies, that is, had subject imports all been fairly priced. I then determine whether the change in conditions constitutes material injury. The Court of International Trade has held that the "statutory language fits very well" with my mode of analysis.[5]

In my analysis of material injury, I evaluate the effects of the dumping or subsidies on domestic prices, domestic sales, and domestic revenues. To evaluate the effects of the dumping or subsidies on domestic prices, I compare domestic prices that existed when the imports were dumped or subsidized with what domestic prices would have been if the imports had been priced fairly. Similarly, to evaluate the effects of dumping or subsidies on the quantity of domestic sales,[6] I compare the level of domestic sales that existed when imports were dumped or subsidized with what domestic sales would have been if the imports had been priced fairly. The combined price and quantity effects translate into an overall domestic revenue impact. Understanding the impact on the domestic industry's prices, sales and overall revenues is critical to determining the state of the industry, because the impact on other industry indicators (e.g., employment, wages, etc.) is derived from the impact on the domestic industry's prices, sales, and revenues.

---

[1] 19 U.S.C. § 1677(7)(B)(I).

[2] 19 U.S.C. § 1677(7)(B)(ii).

[3] 19 U.S.C. § 1677(7)(B)(iii).

[4] S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987)(emphasis added).

[5] U.S. Steel Group v. United States, 873 F.Supp. 673, 695 (Ct. Int'l Trade 1994), appeal docketed, No. 95-1245 (Fed. Cir. March 22, 1995).

[6] In examining the quantity sold, I take into account sales from both existing inventory and new production.

I then determine whether the price, sales and revenue effects of the dumping or subsidies, either separately or together, demonstrate that the domestic industry would have been materially better off if the imports had been priced fairly. If so, the domestic industry is materially injured by reason of the dumped or subsidized imports.

III. CONDITIONS OF COMPETITION IN THE CASING AND TUBING MARKET

To understand how an industry is affected by unfair imports, we must examine the conditions of competition in the domestic market. The conditions of competition constitute the commercial environment in which the domestic industry competes with unfair imports, and thus form the foundation for a realistic assessment of the effects of the dumping or subsidies. This environment includes demand conditions, substitutability among and between products from different sources, and supply conditions in the market.

A. Demand Conditions

An analysis of demand conditions tells us what options are available to purchasers, and how they are likely to respond to changes in market conditions, for example an increase in the general level of prices in the market. Purchasers generally seek to avoid price increases, but their ability to do so varies with conditions in the market. The willingness of purchasers to pay a higher price will depend on the importance of the product to them (e.g., how large a cost factor) and whether they have options that allow them to avoid the price increase, for example by switching to alternative products. An analysis of these demand-side factors tells us whether demand for the product is elastic or inelastic, that is, whether purchasers will reduce the quantity of their purchases if the price of the product increases. For the reasons discussed below, I find that the domestic elasticity of demand for casing and tubing is somewhat low.

Cost Factor. The first factor that measures the willingness of purchasers to pay higher prices is the importance of the product to purchasers. If the product is an input, its importance will depend on the significance of the product's cost relative to the total cost of the downstream products in which it is used. When the price of an input is a small portion of the total product cost, changes in the price of the input are less likely to alter demand for the downstream product and, by extension, the demand for the input.

The majority of purchasers reported that the cost of all OCTG, including drill pipe, as a share of the total cost of an oil or gas rig is generally in the 15 to 35 percent range. Excluding drill pipe, the cost share of casing and tubing would be smaller. This suggests that small changes in the price of casing and tubing would have only a moderate effect on the overall cost of the rig, or the amount of drilling activity in the United States.[7]

Alternative Products. A second important factor in determining whether purchasers would be willing to pay higher prices is the availability of viable alternative products. Often purchasers can avoid a price increase by switching to alternative products. If such an option exists, it can impose discipline on producer efforts to increase prices.

---

[7] EC-S-079 at 12.

In these investigations the record demonstrates that some substitution is possible.[8] Several substitute products were identified, including line pipe, refurbished tubing, and fiberglass tubing.[9] Thus purchasers could have increased their consumption of these products somewhat if subject imports had been priced fairly.

Taking into consideration both the small to moderate cost factor in downstream products and purchasers' limited options to use alternative products, I find that the elasticity of demand for casing and tubing is somewhat low. That is, purchasers will not reduce significantly the amount of casing and tubing they buy if faced with a general increase in the price of casing and tubing.

B. Substitutability

Simply put, substitutability measures the similarity or dissimilarity of products from the purchaser's perspective. Substitutability depends upon 1) the extent of product differentiation, measured by product attributes such as physical characteristics, suitability for intended use, quality, etc.; 2) differences in other non-price considerations such as reliability of delivery, technical support, and lead times; and 3) differences in terms and conditions of sale. Products are close substitutes and have high substitutability if product attributes, other non-price considerations and terms and conditions of sale are similar.

While price is nearly always important in purchasing decisions, non-price factors that differentiate products determine the value that purchasers receive for the price they pay. If products are close substitutes, their value to purchasers is similar, and thus purchasers will respond more readily to relative price changes. On the other hand, if products are not close substitutes, relative price changes are less important and are therefore less likely to induce purchasers to switch from one source to another.

Because demand for casing and tubing is relatively inelastic, overall purchases will not decline significantly if casing and tubing prices increase. However, purchasers will seek other sources of casing and tubing to avoid price increases. In other words, while overall demand for casing and tubing will remain relatively constant, the demand for casing and tubing from different sources will decrease or increase depending on their relative prices and the substitutability of casing and tubing from different sources. If casing and tubing from different sources are substitutable, purchasers are more likely to shift sources when the price from one source (e.g., subject imports) increases. The magnitude of this shift in demand is determined by the degree of substitutability among the sources.

Purchasers in these investigations have three primary sources of casing and tubing: domestically-produced casing and tubing, subject imports, and nonsubject imports. Purchasers are more or less likely to switch from any one of these sources to another as relative price levels change depending on the similarity, or substitutability, between and among them.

In these investigations, I have cumulated subject imports of casing and tubing from Argentina, Korea, and Mexico, but not subject imports of casing and tubing from Japan.[10] Subject imports from Japan, which are a high-end product, are somewhat good substitutes for

---

[8] Seven-of-eleven producers, four-of-twenty-four importers and thirteen-of-forty-one purchasers stated that some substitution of other products for OCTG is possible. Most of the questionnaire respondents stated that changes in the prices of these substitute products have not affected the demand for OCTG. See EC-S-079 at 11 and 12.

[9] EC-S-079 at 11.

[10] I do not cumulate subject imports from Austria, Italy or Spain as I find them to be negligible. See my discussion of cumulation in the majority opinion.

the domestic like product. The domestic like product competes in all product areas where Japanese imports have a presence.[11] Nonsubject imports are not good substitutes for subject imports from Japan. Import and unit value data suggest limited competition between the high-end Japanese products and nonsubject imports.[12]

Subject imports of casing and tubing from Argentina and Mexico and the domestic like product are somewhat good substitutes, while subject imports of casing and tubing from Korea are relatively moderate substitutes for the domestic like product. The domestic like product competes in all product areas where these cumulated subject imports have a presence, although most subject imports from Korea are concentrated in one product area.[13] Nonsubject imports are good substitutes for cumulated subject imports from Argentina, Korea and Mexico and the domestic like product.[14]

C. Supply Conditions

Supply conditions in the market are a third condition of competition. Supply conditions determine how producers would respond to an increase in demand for their product, and also affect whether producers are able to institute price increases and make them stick. Supply conditions include producers' capacity utilization, their ability to increase their capacity readily, the availability of inventories and products for export markets, production alternatives and the level of competition in the market.

The level of competition in the domestic market has a critical effect on producer responses to demand increases. A competitive market is one with a number of suppliers, able to produce sufficient amounts of a product to meet purchaser demand. Capacity utilization rates are also key. Unused capacity can exercise discipline on prices, if there is a competitive market, as no individual producer could make a price increase stick.

Capacity Utilization and Inventories. In 1994, average-of-period capacity utilization for the domestic casing and tubing industry was *** percent. Available production capacity far exceeded the total quantity of either subject imports from Japan or cumulated subject imports from Argentina, Korea, and Mexico. The domestic casing and tubing industry also had sizeable inventories available at the end of 1994. Moreover, the domestic industry had significant export sales in 1994 that could have been diverted to the U.S. market.[15] Thus the domestic industry had available capacity, inventories and export sales that would have allowed it to fill the demand supplied by either subject imports from Japan or cumulated subject imports from Argentina, Korea, and Mexico.

Level of Competition. The domestic casing and tubing market is highly competitive. There are multiple domestic producers of casing and tubing with industry-wide unused

---

[11] Table 21, CR at I-51; PR at II-37. See also EC-S-079 at 25-28.

[12] Table A-3, CR at A-10 and A-11; PR at A-7. See also EC-S-079 at 25-28.

[13] Table 21, CR at I-51; PR at II-37. Table A-3, CR at A-10 and A-11; PR at A-7.

[14] Table A-3, CR at A-10 and A-11; PR at A-7. I note that nonsubject imports consist in part of fairly traded imports from Korea. Hyundai Pipe, the *** Korean casing and tubing exporter, was found by the DOC to be trading fairly. These imports are very good substitutes for subject imports from Korea.

[15] Table A-3, CR at A-10 to A-11; PR at A-7.

capacity. In addition, nonsubject imports have had a significant and increasing presence in the casing and tubing market over the period of investigation.[16]

Finally, as I discuss further below, because of the very low margin for subject imports from Argentina, it is likely that most if not all of them would still have entered the U.S. market if they had been fairly priced. The record thus indicates that there is significant competition in the domestic market for casing and tubing, and there would have been significant competition in the domestic market among domestic producers, nonsubject imports, and subject imports from Argentina, even if subject imports from Japan or cumulated subject imports from Argentina, Korea, and Mexico had been fairly priced.

IV. CONSIDERATION OF MATERIAL INJURY TO THE DOMESTIC CASING AND TUBING INDUSTRY

The statute requires us to consider the volume of subsidized or LTFV imports, their effect on domestic prices, and their impact on the domestic industry. I consider each requirement in turn.

A. Volume of Subject Imports

The volume and share of subject imports of casing and tubing are discussed below. It is clear that the larger the volume of subject imports, the larger the effect they will have on the domestic industry. However, a determination of whether the volume of imports is significant cannot be made in a vacuum, but must be evaluated in the context of the price and impact effects of these imports. Due to differing conditions, I find that the volume of subject imports of casing and tubing from Japan is significant, and the volume of cumulated subject imports of casing and tubing from Argentina, Korea, and Mexico is not significant.

1. *Japan*

Subject imports of casing and tubing from Japan increased from *** short tons in 1992 to *** short tons in 1994. Japanese market share by quantity increased from *** percent to *** percent during the same period. By value, subject imports of casing and tubing from Japan increased from *** in 1992 to *** in 1994. Japanese market share by value increased from *** percent to *** percent during the same period.[17]

2. *Argentina, Korea, and Mexico*

Cumulated subject imports from Argentina, Korea, and Mexico increased from *** short tons in 1992 to *** short tons in 1994; market share increased from *** to *** percent, by quantity, during the same period. By value, cumulated subject imports from Argentina, Korea, and Mexico increased from *** in 1992 to *** in 1994; market share by value increased from *** to *** percent during the same period.[18]

---

[16] Table A-3, CR at A-10; PR at A-7.

[17] Table A-3, CR at A-10; PR at A-7.

[18] Table A-3, CR at A-10; PR at A-7.

B. Effect of Subject Imports on Domestic Casing and Tubing Prices[19]

To determine the effect of subject imports on domestic prices I examine whether the domestic industry could have increased its prices if the subject imports had not been dumped. As discussed above, both demand and supply conditions in the casing and tubing market are relevant. Examining demand conditions helps us understand whether purchasers would have been willing to pay higher prices for the domestic product, or buy more or less of it, if subject imports had been sold at fairly traded prices. Examining supply conditions helps us understand whether available capacity and competition in the market would have imposed discipline and prevented price increases for the domestic product, even if subject imports had not been unfairly priced.

In most cases if the subject imports of casing and tubing had not been dumped, their prices in the U.S. market would have increased significantly. Thus if subject imports from Japan or cumulated subject imports from Argentina, Korea, and Mexico had been fairly priced, the Korean and Mexican subject imports would have become much more expensive relative to domestic casing and tubing and nonsubject imports. If the casing and tubing from the different sources are substitutable, purchasers would have shifted towards the relatively less expensive products.

1. Japan

In these investigations, the dumping margin for Japanese subject imports of casing and tubing is 44.2 percent. Thus, prices for subject imports from Japan would have risen by a significant amount had they been priced fairly. As discussed above, nonsubject imports are not good substitutes for Japanese subject imports. Therefore, had Japanese subject imports been fairly priced, a substantial portion, if not all, of the demand for subject imports from Japan would have shifted to the domestic products.

However, notwithstanding the somewhat low elasticity of demand for casing and tubing, any attempt by the domestic industry to increase its prices would have been unsuccessful. There is significant competition among casing and tubing suppliers in the U.S. market and domestic supply elasticity is high. In these circumstances, any effort by a domestic supplier to raise its prices would have been beaten back by competitors. Therefore, significant effects on domestic prices cannot be attributed to the unfair pricing of subject imports from Japan. Consequently, I find that subject imports from Japan are not having significant effects on prices for domestic casing and tubing.

2. *Argentina, Korea, and Mexico*

In these investigations, the magnitude of the changes in relative price levels if subject imports had been fairly priced would have been different depending on the margins of the individual countries. The margins for subject imports of casing and tubing from Argentina, Korea, and Mexico are 1.36, 12.17, and 23.79 percent, respectively. Prices of subject imports from Mexico likely would have risen substantially, with smaller increases in the prices of Korean and Argentine subject imports, had they been fairly priced. As discussed above, subject and nonsubject imports are good substitutes. The shift in demand from

---

[19] As I discussed in the cumulation section of the majority opinion, the supply and demand characteristics of the domestic casing and tubing market indicate that it is not price sensitive to the small quantities of imports from either Austria, Italy, or Spain. Consequently, I do not find that subject imports of casing and tubing from Austria, Italy, or Spain have significant price effects.

subject imports would be split between the domestic product and nonsubject imports. Some of the purchasers that were unwilling to pay a higher price for subject imports from Mexico and Korea would have switched to the relatively less expensive domestic product, while others would have switched to the relatively less expensive nonsubject imports or possibly to the slightly more expensive Argentine subject imports.[20] Accordingly, the overall increase in demand for domestic casing and tubing would have been small.

Notwithstanding the somewhat low elasticity of demand for casing and tubing, any attempt by the domestic industry to increase its prices would have been unsuccessful. There is significant competition among casing and tubing suppliers and *** excess production capacity in the U.S. market. Domestic producers compete among themselves as well as with nonsubject imports. The significant amount of subject imports that would have continued to enter the U.S. market at fairly traded prices would have provided significant additional price discipline. In these circumstances, any effort by a domestic supplier to raise its prices would have been beaten back by competitors. Therefore, significant effects on domestic prices cannot be attributed to the unfair pricing of cumulated subject imports from Argentina, Korea, and Mexico. Consequently, I find that cumulated subject imports from Argentina, Korea, and Mexico are not having significant effects on prices for domestic casing and tubing.

C. Impact of Subject Imports on the Domestic Casing and Tubing Industry[21]

To assess the impact of subject imports on the domestic industry, I consider output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development and other relevant factors.[22] These factors together either encompass or reflect the volume and price effects of the dumped imports, and so I gauge the impact of the dumping through those effects.

1. Japan

The domestic industry would not have been able to increase its prices significantly had subject imports of casing and tubing from Japan been priced fairly. Therefore, any impact of dumped imports on the domestic industry would have been on the domestic industry's output and sales.

As I have discussed above, had subject imports from Japan not been dumped, the increase in demand for domestic casing and tubing would have been significant. Domestic

---

[20] In these investigations, it is unlikely that purchasers would have increased their purchases of casing and tubing imports from Argentina had subject imports been fairly priced. As discussed below, there would not have been any significant price effect had subject imports been fairly priced. As such, Argentine import prices would have risen relative to other sources of casing and tubing. Given the levels of substitutability, it is more likely that this relative increase in price would have reduced or not changed demand for subject imports from Argentina had subject imports been fairly priced.

[21] As I discussed in the cumulation section of the majority opinion, the supply and demand characteristics of the domestic casing and tubing market indicate that it is not price sensitive as defined in the statute. Consequently, I do not find that subject imports of casing and tubing from Austria, Italy, or Spain have significant impact effects. Since I do not find that subject imports from these countries have had significant price or impact effects, nor do I find their volume to be significant, I find no material injury by reason of subject imports from these countries.

[22] 19 U.S.C. § 1677(7)(C)(iii).

suppliers could easily have increased their production and sales to satisfy the increased demand. This increase in supply would have been significant. Accordingly, I find that, had subject imports from Japan not been dumped, the impact on the domestic industry's output and sales would have been significant.

Had subject imports from Japan not been dumped, the domestic industry would have been able to increase its output and sales, and therefore its revenues, significantly. Consequently the domestic industry would have been materially better off if subject imports from Japan had been fairly traded. Therefore, I find that the domestic industry producing casing and tubing is materially injured by reason of LTFV imports of casing and tubing from Japan.

2. Argentina, Korea, and Mexico

The domestic industry would not have been able to increase its prices significantly had cumulated subject imports of casing and tubing from Argentina, Korea, and Mexico been priced fairly. Therefore, any impact of dumped imports on the domestic industry would have been on the domestic industry's output and sales.

As I have discussed above, had cumulated subject imports from Argentina, Korea, and Mexico not been dumped, the increase in demand for domestic casing and tubing would have been small. Domestic suppliers could easily have increased their production and sales to satisfy the increased demand. However, the domestic industry's output and sales, and therefore its revenues, would not have increased significantly. Accordingly, I find that, had cumulated subject imports from Argentina, Korea, and Mexico not been dumped, the impact on the domestic industry's output and sales would not have been significant.

Had cumulated subject imports from Argentina, Korea, and Mexico not been dumped, the domestic industry would not have been able to increase its prices, output or sales, and therefore its revenues, significantly. Consequently the domestic industry would not have been materially better off if the cumulated subject imports from Argentina, Korea, and Mexico had been fairly traded. Therefore, I find that the domestic industry producing casing and tubing is not materially injured by reason of cumulated LTFV imports of casing and tubing from Argentina, Korea, and Mexico.

V. NO THREAT OF MATERIAL INJURY BY REASON OF LTFV IMPORTS OF CASING AND TUBING FROM ARGENTINA, KOREA, AND MEXICO[23]

In assessing whether a domestic industry is threatened with material injury by reason of imports from two or more countries, the Commission has discretion to cumulate the volume and price effects of such imports if they compete with each other and the domestic like product.[24]

In my determination of no material injury by reason of LTFV imports from Argentina, Korea, and Mexico, I cumulated subject imports from these three countries. For purposes of my threat analysis, I exercise my discretion to cumulate by giving the benefit of the doubt to the petitioners and again cumulate subject imports from these three countries. I find that the domestic casing and tubing industry is not threatened with material injury by reason of subject imports from Argentina, Korea, and Mexico.

---

[23] I concur with Chairman Watson in his discussion of no threat of material injury by reason of subject imports of casing and tubing from Austria, Italy, Japan, and Spain.

[24] 19 U.S.C. §1677(7)(F)(iv).

Although exports from Argentina, Korea, and Mexico to the U.S. *** from 1992 to 1994, exports from these countries to other markets ***. Moreover, from 1993 to 1994 exports to the U.S. *** while shipments to their home markets collectively increased by *** percent.[25] I note that the impact of higher imports was somewhat diminished by the increase in U.S. consumption over the POI; cumulated market share rose from *** to *** percent. Thus, cumulated imports were present throughout the POI, but their largest market share remained fairly small.

During the POI, capacity utilization *** and production capacity *** in all three countries except in Korea, the smallest producer of the three, ***.[26] Ending inventory quantity of cumulated subject imports was virtually unchanged from 1992 to 1994. The level of cumulated inventories in 1994 represents only *** percent of domestic consumption, a level too small to constitute evidence that any threat of material injury is real or that actual injury is imminent.[27]

In my determination of no material injury by reason of cumulated LTFV imports from Argentina, Korea, and Mexico, I demonstrated that the cumulated LTFV imports are having no significant effect on domestic prices. I find no positive evidence that this will change in the immediate future. Therefore, I conclude that the cumulated LTFV imports will not enter the U.S. at prices that will have a depressing or suppressing effect on domestic prices.

I do not find any significant potential for product-shifting. Production equipment in Argentina that currently produces seamless pipe cannot be, or is unlikely to be, used to produce finished casing and tubing.[28] Although producers in Korea and Mexico manufacture some non-OCTG products on equipment that could be used to produce casing and tubing, there is no evidence of any change in marketing strategy or market conditions that would lead them to do so. I note that the Mexican peso has strengthened against the U.S. dollar in recent months, following the rapid depreciation in early 1995. Such an appreciation in the peso-dollar exchange rate tends to reduce demand for Mexican products.

There is no significant evidence of negative effects on the existing development and production efforts of the domestic industry by reason of cumulated subject imports of casing and tubing. Finally, I do not find any other demonstrable adverse trends that indicate that the cumulated subject imports will be the cause of actual injury.

For the reasons stated above, I determine that the domestic industry producing casing and tubing is not threatened with material injury by reason of cumulated LTFV imports from Argentina, Korea, and Mexico.

VI. CONDITIONS OF COMPETITION IN THE DOMESTIC DRILL PIPE MARKET

My analysis of this market follows the same analytical framework as in the casing and tubing market discussion above. The supply and demand characteristics of the domestic drill pipe market are in many respects similar to the casing and tubing market. In the discussion below, I focus on the defining characteristics of the drill pipe market. I begin with a discussion of the conditions of competition. I then consider the volume, price, and impact effects of subject imports from Japan and cumulated subject imports from Argentina and Mexico.

---

[25] See Tables 17, E-2, and E-6, CR at I-40, E-3, and E-5; PR at II-30 and E-3.

[26] See Tables 17, E-2, and E-6, CR at I-40, E-3, and E-5; PR at II-30 and E-3.

[27] Table A-3, CR at A-10; PR at A-7.

[28] CR at I-37, n. 57; PR at II-29.

A. Demand Conditions

The domestic elasticity of demand for drill pipe is somewhat lower than that for casing and tubing due to the smaller cost share of drill pipe in the end use product. As mentioned above, the majority of purchasers indicated that the cost of all OCTG as a share of the total cost of an oil or gas rig is generally in the 15 to 35 percent range. However, drill pipe represents only a portion of OCTG used, with casing and tubing representing the bulk of the cost.[29] There are only some substitute products available for drill pipe, such as refurbished or aluminum drill pipe.[30] Taking into consideration both the relatively small cost factor in downstream products and the purchaser's relatively limited options to use alternative products, I find that the elasticity of demand for drill pipe is low. That is, purchasers will not significantly reduce the amount drill pipe they buy in response to a general increase in the price of drill pipe.

B. Substitutability

Subject imports of drill pipe from Japan, which are a high-end product, are a somewhat good substitute for the domestic like product. They compete in two major drill pipe product categories but not in a third.[31] Data indicate that nonsubject imports are not good substitutes for the high-end Japanese products.[32]

Cumulated subject imports from Argentina and Mexico and the domestic like product are good substitutes. They compete in the largest drill pipe product category and have similar unit values.[33] Unit value data suggest that nonsubject imports are somewhat good substitutes for subject imports from Argentina and Mexico and the domestic like product.[34]

C. Supply Conditions

Overall supply conditions in the drill pipe market are similar to those in the casing and tubing market. In 1994, average-of-period capacity utilization for the domestic drill pipe industry was *** percent. Available product capacity far exceeded the total quantity of either cumulated subject imports from Argentina and Mexico or subject imports from Japan. Although inventories and export shipments were generally low,[35] the domestic industry's available capacity could easily fill the demand supplied by either subject imports from Japan or subject imports from Argentina and Mexico.

The domestic drill pipe market is very competitive. There are numerous domestic producers of drill pipe with industry-wide unused capacity. In addition, nonsubject imports have had a significant presence in the drill pipe market, although this presence has not been as great as that in the casing and tubing market, relative to subject imports. Finally, it is

---

[29] I note that sales of drill pipe in the United States represent less than two percent of all sales of OCTG in the United States. See Tables A-2 and A-3, CR at A-7 and A-10; PR at A-7. From this, I infer that casing and tubing represent a greater portion of the overall costs of OCTG in oil or gas rigs.

[30] EC-S-079 at 11.

[31] See Table F-1, CR at F-7; PR at F-4.

[32] See Table A-2, CR at A-7 and A-8; PR at A-7, and EC-S-079 at 28.

[33] See Tables A-2, F-1, CR at A-7 and A-8 and F-7; PR at A-7 and F-4, and EC-S-079 at 22-24, 27, and 37.

[34] See Table A-2, CR at A-7; PR at A-7, and EC-S-079 at 27-28.

[35] Table A-2, CR at A-7 and A-8; PR at A-7.

likely that a significant quantity of subject imports of drill pipe from Argentina, which received a relatively low margin, would still have entered the U.S. market if subject imports had been fairly priced.

The record thus indicates that there is competition in the domestic drill pipe market, and there would have been competition in the domestic drill pipe market among domestic producers, nonsubject imports, and possibly continued subject imports from Argentina if subject imports of drill pipe from Japan or cumulated subject imports of drill pipe from Argentina and Mexico had been fairly priced.

VII. CONSIDERATION OF MATERIAL INJURY TO THE DOMESTIC DRILL PIPE INDUSTRY[36]

The statute requires us to consider the volume of LTFV imports, their effect on domestic prices, and their impact on the domestic industry. I consider each requirement in turn.

A. Volume of Subject Imports

The volume and share of subject imports are discussed below. It is clear that the larger the volume of subject imports, the larger the effect they will have on the domestic industry. However, a determination of whether the volume of imports is significant cannot be made in a vacuum, but must be evaluated in the context of the price and impact effects of these imports. For the reasons discussed below, I find that the volume of subject imports of drill pipe from Japan and the volume of cumulated subject imports of drill pipe from Argentina and Mexico are significant.

1. Japan

Subject imports of drill pipe from Japan increased from *** short tons in 1992 to *** short tons in 1994. Japanese market share by quantity increased from *** percent to *** percent during the same period. By value, subject imports of drill pipe from Japan increased from *** in 1992 to *** in 1994. Japanese market share by value increased from *** percent to *** percent during the same period.[37]

2. Argentina and Mexico

Cumulated subject imports of drill pipe from Argentina and Mexico increased from *** short tons in 1992 to *** short tons in 1994; market share increased from *** to *** percent, by quantity, during the same period. By value, cumulated subject imports of drill pipe from Argentina and Mexico increased from *** in 1992 to *** in 1994; market share by value increased from *** to *** percent during the same period.[38] [39]

---

[36] There were no imports of LTFV drill pipe from Austria, Italy, Korea, or Spain during 1994. A zero volume of imports cannot be significant. Likewise, there can be no possible price effects or impact from a zero volume. Therefore, I find that there is no material injury by reason of subject imports from Austria, Italy, Korea, or Spain.

[37] Table A-2, CR at A-7; PR at A-7.

[38] Table A-2, CR at A-7; PR at A-7.

B. Effect of Subject Imports on Domestic Drill Pipe Prices

To determine the effect of subject imports on domestic prices I examine whether the domestic industry could have increased its prices if the subject imports had not been dumped. For the reasons discussed in the casing and tubing section above, both demand and supply conditions in the drill pipe market are relevant.

In most cases, if the subject imports had not been dumped, their prices in the U.S. market would have increased significantly. Thus if subject imports from Japan or cumulated subject imports from Argentina and Mexico had been fairly priced, they would have become more expensive relative to domestic drill pipe and nonsubject imports. If the drill pipe from the different sources is substitutable, purchasers would have shifted towards the relatively less expensive products.

1. Japan

In these investigations, the dumping margin for Japanese subject imports of drill pipe is 44.2 percent. Thus, prices for subject imports from Japan would have risen by a significant amount had they been priced fairly. As discussed above, nonsubject imports are not good substitutes for Japanese subject imports. Therefore, it is likely that a substantial portion, if not all, of the demand for subject imports would have shifted to the domestic products.

Notwithstanding the somewhat low elasticity of demand for drill pipe, any attempt by the domestic industry to increase its prices would have been unsuccessful. There is significant competition among drill pipe suppliers and significant unused capacity in the U.S. market. Thus, domestic industry could easily have increased its supply to the market.[40] In these circumstances, any effort by a domestic supplier to raise its prices would have been beaten back by competitors. Therefore, significant effects on domestic prices cannot be attributed to the unfair pricing of subject imports from Japan. Consequently, I find that subject imports of drill pipe from Japan are not having significant effects on prices for domestic drill pipe.

2. Argentina and Mexico

In these investigations, the magnitude of the changes in relative price levels if subject imports had been fairly priced would have been different depending on the margin of the individual country. The margins for cumulated subject imports of drill pipe from Argentina and Mexico are 1.36 and 23.79 percent, respectively. Prices of subject imports from Mexico would have risen significantly while prices of subject imports from Argentina would not have risen by very much, had they been fairly priced. As discussed above, subject and nonsubject imports are good substitutes. Many of the purchasers that were unwilling to pay a higher price for subject imports from Mexico would have switched to the relatively less expensive domestic product, while others would have switched to the relatively less expensive

---

[39] (...continued)

[39] Because incomplete data on OCTG were received from importers, Mexican import volume and market share were calculated based on Commerce's official import statistics. CR at I-24; PR at II-19. However, my determinations would not have been different had questionnaire data been used in these calculations. Based on questionnaire data, U.S. shipments of drill pipe from Argentina and Mexico ***. Table A-2, CR at A-7; PR at A-7; Table F-1, CR at F-7; PR at F-4.

[40] See also EC-S-079 at 32.

nonsubject imports or the slightly more expensive Argentine subject imports.[41] Nonetheless, the overall increase in demand for domestic drill pipe would have been significant due to Argentina's and particularly Mexico's significant displaced presence in the market.

Notwithstanding the low elasticity of demand for drill pipe, any attempt by the domestic industry to increase its prices would have been unsuccessful. There is significant competition among drill pipe suppliers in the U.S. market and *** unused capacity. Domestic producers compete among themselves as well as with nonsubject imports. The significant amount of subject imports that would have continued to enter the U.S. market at fairly traded prices would have provided significant additional price discipline. In these circumstances, any effort by a domestic supplier to raise its prices would have been beaten back by competitors. Therefore, significant effects on domestic prices cannot be attributed to the unfair pricing of cumulated subject imports from Argentina and Mexico. Consequently, I find that cumulated subject imports of drill pipe from Argentina and Mexico are not having significant effects on prices for domestic drill pipe.

C. Impact of Subject Imports on the Domestic Drill Pipe Industry

To assess the impact of subject imports on the domestic industry, I consider output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development and other relevant factors.[42] These factors together either encompass or reflect the volume and price effects of the dumped imports, and so I gauge the impact of the dumping through those effects.

1. Japan

The domestic industry would not have been able to increase its prices significantly if subject imports of drill pipe from Japan had been priced fairly. Therefore, any impact of dumped imports on the domestic industry would have been on the domestic industry's output and sales.

As I have discussed above, had subject imports of drill pipe from Japan not been dumped, the increase in demand for domestic drill pipe would have been significant. Domestic suppliers could easily have increased their production and sales to satisfy the increased demand. This increase in supply would have been significant. Accordingly, I find that, had subject imports of drill pipe from Japan not been dumped, the impact on the domestic industry's output and sales would have been significant.

Had subject imports of drill pipe from Japan not been dumped, the domestic industry would have been able to increase its output and sales, and therefore its revenues, significantly. Consequently the domestic industry would have been materially better off if the subject imports from Japan had been fairly traded. Therefore, I find that the domestic industry producing drill pipe is materially injured by reason of LTFV imports of drill pipe from Japan.

---

[41] In these investigations, it is unlikely that purchasers would have increased their purchases of the Argentine product had subject imports been fairly priced. As discussed below, there would not have been any significant price effect had subject imports been fairly priced. As such, Argentine import prices would have risen relative to other sources of drill pipe. Given the levels of substitutability, it is more likely that this relative increase in price would have reduced or not changed the level of demand for subject imports from Argentina had subject imports been fairly priced.

[42] 19 U.S.C. § 1677(7)(C)(iii).

2. Argentina and Mexico

The domestic industry would not have been able to increase its prices significantly if cumulated subject imports of drill pipe from Argentina and Mexico had been priced fairly. Therefore, any impact of dumped imports on the domestic industry would have been on the domestic industry's output and sales.

As I have discussed above, had cumulated subject imports from Argentina and Mexico not been dumped, the increase in demand for domestic drill pipe would have been significant. Domestic suppliers could easily have increased their production and sales to satisfy the increased demand. This increase in supply would have been significant. Accordingly, I find that, had cumulated subject imports from Argentina and Mexico not been dumped, the impact on the domestic industry's output and sales would have been significant.

Had cumulated subject imports of drill pipe from Argentina and Mexico not been dumped, the domestic industry would have been able to increase its output or sales, and therefore its revenues, significantly. Consequently the domestic industry would have been materially better off if the cumulated subject imports from Argentina and Mexico had been fairly traded. Therefore, I find that the domestic industry producing drill pipe is materially injured by reason of cumulated LTFV imports of drill pipe from Argentina and Mexico.

SEPARATE AND DISSENTING VIEWS OF COMMISSIONER LYNN M. BRAGG

Negligible Imports From Austria and Spain

I find that imports of OCTG excluding drill pipe from Austria and Spain are not negligible, and thus for purposes of my analysis I have cumulated these imports with imports from other subject countries.

The record indicates that OCTG excluding drill pipe is a price sensitive commodity product,[1] and thus even a small amount of unfairly traded imports may have a discernible adverse impact on the domestic industry. There is no numerical standard for negligibility and no "bright line" test for negligibility determinations.[2] Congress clearly expressed its intention that imports be cumulated unless the evidence indicates that they have no possible market impact.[3]

During the first quarter of 1994 imports from Austria reached a *** share by quantity and a *** share by value of the domestic market.[4] Evidence that imports from Austria had adverse price effects is found in the lost sales data, which show that at least one domestic mill lost sales to Austrian imports.[5]

Imports from Spain were present in the U.S. market throughout the period of investigation, and increased in market share by quantity to their highest level in January-March 1995. The quantity share held by imports from Spain *** between 1992 and 1993. The market share by value of the imports from Spain exhibited similar growth and reached ***, its highest level, in interim 1995.[6]

The record also demonstrates that imports from Austria and Spain were concentrated in certain product categories, and held higher shares in each of those categories than their overall market penetration reflects.[7] This concentration supports a finding that imports from Spain and Austria have contributed to adverse price effects in the product categories in which they compete.

Imports from Austria and Spain reached levels during the POI which, in my view, were not negligible given the circumstances of these investigations. Because imports from Austria and Spain satisfy all of the other cumulation criteria, I have cumulated imports of OCTG excluding drill pipe from Austria and Spain with subject imports from Japan, Argentina, Italy, Mexico, and Korea.

---

[1] Price was ranked as the most important consideration in buying OCTG by 18 of 33 distributors and was ranked second by 8. PR at II-41; CR at I-56.

[2] See, e.g., Certain Carbon Steel Butt-Weld Pipe Fittings from France, India, Israel, Malaysia, the Republic of Korea, Thailand, The United Kingdom, and Venezuela, Invs. Nos. 701-TA-360-361 and 731-TA-688-695 (Preliminary), USITC Pub. 2767 (Apr. 1994) at I-17 n. 104.

[3] 19 U.S.C. Sec. 1677(7)(C)(v). The negligible imports exception is to applied narrowly and is not to be used to subvert the purpose and general applicability of the mandatory cumulation provision of the statute. See H.R. Rep. No. 40, Part I, 100th Cong., 1st Sess. 131 (1987); H.R. Rep. No. 576, 100th Cong., 2d Sess. 621 (1988).

[4] Table A-3, PR at A-7; CR at A-10.

[5] Petitioner's posthearing brief Vol. I at 25-26 and Vol. II at Ex. 1.

[6] Table A-3, PR at A-7; CR at A-10.

[7] For example, Spain sold more *** in 1994 than any other importer and Austria sold more *** in 1994 than any other importer. Table 21, PR at II-37; CR at I-51.

No Present Material Injury to the Domestic Drill Pipe Industry

Based on the record in these final investigations, I find that the U. S. industry producing drill pipe is not presently materially injured by reason of subject imports from Argentina, Japan and Mexico.

Cumulation:

In my consideration of the issue of present material injury to the domestic drill pipe industry, I did not cumulate the subject imports from Japan with the subject imports from Argentina and Mexico. Most Japanese drill pipe is mill finished standard-weight drill pipe or unfinished heavy-weight drill pipe, unlike the unfinished standard-weight drill pipe from Argentina and Mexico.[8] The average unit values for Japanese drill pipe throughout the 1992 through 1994 period were far greater than the average unit values for Argentina and Mexico.[9] This is evidence of the lack of fungibility between the Japanese imports, on the one hand, and subject imports from Argentina and Mexico, on the other. I did cumulate imports from Argentina and Mexico for the same reasons set forth in the majority opinion.

Volume of Imports:

I do not find the volume of drill pipe imports from Japan to be significant in light of the circumstances of these investigations. Although imports of drill pipe from Japan increased between 1992 and 1994 and between January-March 1994 and January-March 1995 in terms of volume, these increases reflect both the low initial level of drill pipe imports in 1992 and the fluctuating, but generally increasing, level of drill pipe consumption in the United States over this period of time.[10]

Similarly, I do not find the volume of drill pipe imports from Argentina and Mexico to be significant. The volume and value of the cumulated imports of drill pipe from these two countries increased from a very low initial level between 1992 and 1994, but declined between January-March 1994 and January-March 1995. This trend, although differing in magnitude, was in accord with the trend in apparent U.S. consumption of drill pipe over this period.[11]

---

[8] Table F-1, PR at F-4; CR at F-7.

[9] Table A-2, PR at A-7; CR at A-7.

[10] Table A-2, PR at A-7; CR at A-7. Imports of drill pipe from Japan increased from *** short tons in 1992 to *** short tons in 1994, and from *** short tons to *** short tons in the interim periods. Although the market share held by drill from Japan also increased between 1992 and 1994 and between interim periods, I note that the share held in January-March 1995 was virtually identical to that held in 1992. Further, while the value of imports of drill pipe from Japan showed a similar trend as volume between 1992 and 1994, between the interim periods the value of such imports declined both absolutely and in terms of market share. *Id.*

[11] Table A-2, PR at A-7; CR at A-7. Imports of drill pipe from Argentina and Mexico increased from *** short tons in 1992 to *** short tons in 1994, but fell from *** short tons to *** short tons between the interim periods. Similar trends –increases from low levels between 1992 and 1994, followed by noticeable declines between the interim periods -- were apparent in the value of drill pipe imports from Argentina and Mexico and in the market share (by volume and by value) held by these imports.

Accordingly, in light of these conclusions, I do not find that imports of drill pipe from Japan and from Argentina and Mexico have risen to injurious levels at the present time.

Price Effects:

I do not find that there is sufficient evidence in the record to sustain a finding of present material injury to the domestic drill pipe industry resulting from the prices of the subject imports. The evidence of underselling and overselling for the subject imports is mixed. There is evidence that unit values for Japanese drill pipe have *** each year of the POI and that *** for drill pipe from Argentina and Mexico.[12] These trends, however, have not resulted in present material injury to the domestic drill pipe industry.

Impact on the Domestic Drill Pipe Industry:

The increase in subject imports and the price effects from those imports have not caused present material injury to the domestic drill pipe industry. As discussed in the majority views entitled "Views of the Commission", the financial and operating performance of the domestic industry are favorable at the present time,[13] although I consider the increase in subject imports, the drop in the quantity of domestic sales and the drop in domestic market share to be warning signs of an industry at risk.[14] I note, as I have with regards to OCTG excluding drill pipe, that the inclusion of processors enhances the condition of the domestic drill pipe industry.[15] My views on the inclusion of processors in the definition of the domestic industry are set forth at note 66, and are especially pertinent in my analysis of the domestic drill pipe industry. Because I find no sufficient correlation between the subject imports and the present favorable condition of the domestic industry, I make a negative present injury determination.

---

[12] *Id.*

[13] Operating income increased by 58.8 percent between 1992 and 1994 and by 14.7 percent between interim 1994 and 1995. Table A-7, PR at A-10; CR at A-15.

[14] The quantity of domestic sales declined by 12.8 percent between 1993 and 1994 and by 23.0 percent between the interim periods. Table A-7, PR at A-10; CR at A-15.

[15] Table A-2, PR at A-7; CR at A-9.

PART II

INFORMATION OBTAINED IN THE INVESTIGATIONS

INTRODUCTION

These investigations result from petitions filed on June 30, 1994, by Bellville (Bellville, TX); IPSCO (Camanche, IA); Koppel (Beaver Falls, PA); Maverick (Chesterfield, MO); North Star (Youngstown, OH); U.S. Steel (Pittsburgh, PA); and USS/KOBE (Lorain, OH), alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized imports of OCTG[1] from Austria and Italy and LTFV imports of OCTG from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain.[2] [3] Information relating to the background of the investigations and Commerce's final margins are provided below.[4]

Date	*Action*
June 30, 1994	Petitions filed with Commerce and the Commission; institution of Commission's preliminary investigations
July 26, 1994	Commerce's notices of initiation
August 15, 1994 . . .	Commission's preliminary determinations
December 2, 1994 . .	Commerce's preliminary affirmative countervailing duty determination on Italy; institution of Commission's final investigation (60 F.R. 2983, January 12, 1995)
January 24, 1995 . .	Commerce's preliminary affirmative countervailing duty determination on Austria; institution of Commission's final investigation (60 F.R. 10107, February 23, 1995)
February 2, 1995 . .	Commerce's preliminary affirmative antidumping duty determinations on Argentina, Austria, Italy, Japan, and Korea and preliminary negative antidumping duty determinations on Mexico and Spain; institution of Commission's final investigations on Argentina, Austria, Italy, Japan, and Korea (60 F.R. 10107, February 23, 1995)
March 10, 1995 . . .	Commerce's revised (negative) preliminary antidumping duty determination on Argentina; rescission of institution of Commission's final investigation on Argentina (60 F.R. 15941, March 28, 1995)
June 22, 1995	Commerce's final affirmative countervailing duty determinations on Austria and Italy (60 F.R. 33534, June 28, 1995)

[1] For the purposes of these investigations, OCTG are hollow steel products of circular cross-section. These products include oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether or not conforming to API or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). These investigations do not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. OCTG are provided for in subheadings 7304.20, 7305.20, and 7306.20 of the HTS of the United States, with most-favored-nation tariff rates ranging from 0.4 to 5.6 percent ad valorem for casing, from 1.7 to 7.2 percent for tubing, and from 6.8 to 7.2 percent for drill pipe, applicable to imports from all subject countries except Mexico. Goods of Mexico under NAFTA are eligible for special tariff treatment, with rates ranging from 0.4 to 4.9 percent ad valorem for casing, from 1.5 to 6.4 percent for tubing, and from 6.0 to 6.4 percent for drill pipe.

[2] Lone Star (Dallas, TX) and Newport (Newport, KY) joined as petitioners subsequent to the filing of the petitions. Bellville joins only in the antidumping petitions against Korea and Italy, USS/KOBE and North Star do not join in the antidumping petition against Japan, and Lone Star joins only in the countervailing duty petition against Italy and the antidumping petitions against Argentina, Italy, Korea, and Spain.

[3] A summary of the data collected in the investigations is presented in app. A.

[4] *Federal Register* notices cited in the tabulation are presented in app. B.

Date	*Action*
June 26, 1995	Commerce's final affirmative antidumping duty determinations on Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain (60 F.R. 33539, June 28, 1995); institution of Commission's final antidumping investigations on Argentina, Mexico, and Spain (60 F.R. 32708, June 23, 1995)
June 27, 1995	Commission's hearing[5]
July 24, 1995	Commission's vote
August 2, 1995	Commission's determinations due to Commerce

Country	*Commerce's final margins (percent)*
Argentina	01.36 (LTFV)
Austria	11.44 (subsidies)
	25.90 (LTFV)
Italy	01.47 (subsidies)
	49.78 (LTFV)
Japan	44.20 (LTFV)
Korea	00.00 (LTFV), Hyundai
	12.17 (LTFV), Union Steel and all others
Mexico	23.79 (LTFV)
Spain	11.95 (LTFV)

In addition to the current investigations, carbon and certain alloy steel products generally, and OCTG from Argentina, Austria, Korea, Mexico, Spain, and six other countries specifically, were the subjects of Commission investigations from 1984 to 1987.[6] Information concerning these Commission investigations is presented in table 1.

[5] A list of witnesses appearing at the Commission's hearing is presented in app. C.

[6] In addition, on June 13, 1984, countervailing duty petitions were filed with Commerce on OCTG from Argentina and Mexico. Because these countries were not signatories to the GATT, the Commission was not required to make injury determinations concerning imports from these countries. On June 30, 1995, counsel for North Star filed a request to the Commission for a review under section 753 of the Act of the countervailing duty order on OCTG from Argentina.

Table 1
OCTG: Previous and related investigations

Item/source	Investigation No.	Date	Report No.	Result
Carbon and certain alloy steel products[1]	TA-201-51	1984	USITC 1553	Negative
OCTG:				
Argentina	731-TA-191 (P)	1984	USITC 1555	Affirmative
	731-TA-191 (F)	1985	USITC 1694	Negative
	731-TA-275 (P)	1985	USITC 1747	Affirmative
	731-TA-275 (F)	1986	[2]	Terminated
Austria	701-TA-240 (P)	1985	USITC 1679	Affirmative
	701-TA-240 (F)	1985	[2]	Petition withdrawn
	731-TA-249 (P)	1985	USITC 1679	Affirmative
	731-TA-249 (F)	1985	[2]	Petition withdrawn
Brazil	701-TA-215 (P)	1984	USITC 1555	Affirmative
	701-TA-215 (F)	1985	USITC 1633	Affirmative
	731-TA-192 (P)	1984	USITC 1555	Affirmative
	731-TA-192 (F)	1985	[2]	Petition withdrawn
Canada	701-TA-255 (P)	1985	USITC 1747	Affirmative
	701-TA-255 (F)	1986	USITC 1865	Affirmative
	731-TA-276 (P)	1985	USITC 1747	Affirmative
	731-TA-276 (F)	1986	USITC 1865	Affirmative
Israel	701-TA-271 (P)	1986	USITC 1840	Affirmative
	701-TA-271 (F)	1987	USITC 1952	Affirmative
	731-TA-318 (P)	1986	USITC 1840	Affirmative
	731-TA-318 (F)	1987	USITC 1952	Affirmative
Korea	701-TA-216 (P)	1984	USITC 1555	Affirmative
	701-TA-216 (F)	1985	USITC 1633	Negative
	731-TA-193 (P)	1984	USITC 1555	Affirmative
	731-TA-193 (F)	1984	[2]	Petition withdrawn
Mexico	731-TA-194 (P)	1984	USITC 1555	Affirmative
	731-TA-194 (F)	1984	[2]	Petition withdrawn
Romania	731-TA-250 (P)	1985	USITC 1679	Affirmative
	731-TA-250 (F)	1985	[2]	Petition withdrawn
Spain	701-TA-217 (P)	1984	USITC 1555	Affirmative
	701-TA-217 (F)	1985	USITC 1633	Affirmative
	731-TA-195 (P)	1984	USITC 1555	Affirmative
	731-TA-195 (F)	1985	USITC 1694	Affirmative
Taiwan	701-TA-256 (P)	1985	USITC 1747	Affirmative
	701-TA-256 (F)	1985	[2]	Terminated
	731-TA-277 (P)	1985	USITC 1747	Affirmative
	731-TA-277 (F)	1986	USITC 1865	Affirmative
Venezuela	701-TA-241 (P)	1985	USITC 1679	Affirmative
	701-TA-241 (F)	1985	[2]	Petition withdrawn
	731-TA-251 (P)	1985	USITC 1679	Affirmative
	731-TA-251 (F)	1985	[2]	Petition withdrawn

[1] The subject products included OCTG, as well as other pipes and tubes that are not the subject of the present investigations.
[2] No report was issued.

Source: USITC publications.

THE PRODUCT

This section presents information on both imported and domestically produced OCTG, as well as information related to the Commission's "domestic like product" determination.[7] For the purposes of its preliminary determinations, the Commission found OCTG to be a single like product "consisting of casing, tubing and drill pipe, whether welded or seamless, and whether finished or unfinished" but noted that it intended "to explore more fully in any final investigations whether drill pipe should be a separate like product."[8] The Commission further found carbon and alloy OCTG to be a single like product.[9]

Physical Characteristics and Uses

The imported products subject to these investigations are OCTG, hollow steel products of circular cross-section. These products include oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether or not conforming to API or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). These investigations do not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium.

Casing and tubing are both usually produced in accordance with API specification 5 C/T in O.D.s ranging from 4.5 to 20 inches for casing and 1.05 to 4.5 inches for tubing. Drill pipe (other than the heavy-weight drill pipe described below) is usually produced in accordance with API specification 5 D in O.D.s ranging from 2.375 to 6.625 inches. API 5 C/T specifications overlap with 10 of 16 API 5 D categories (based on O.D. and wall thickness) but generally differ in length and weight per foot (drill pipe tends to be shorter and heavier than casing or tubing).[10]

Casing is used in the drill hole to provide a firm foundation for the drill string[11] by supporting the walls of the hole to prevent caving in both during drilling and after the well is completed. After the casing is set, concrete is pumped between the outside of the casing and the wall of the hole to provide a secure anchor. Casing also serves as a surface pipe designed to prevent contamination of the recoverable oil and gas by surface water, gas, sand, or limestone. The casing must be sufficiently strong to carry its own weight and to resist both external pressure and pressure within the well. Because the amount of open hole that can be drilled at any one time is limited, a string of concentric layers of casing rather than a single casing is used for larger wells. Several

---

[7] The Commission's decision regarding the appropriate domestic product or products like the subject imported product in an investigation is based on a number of factors including: (1) physical characteristics and uses; (2) the use of common manufacturing facilities and production employees; (3) interchangeability of the products; (4) customer and producer perceptions of the products; (5) channels of distribution; and (6) price.

[8] Views of the Commission, pp. 9 and 11. Accordingly, throughout the report and in summary table A-1 data on "OCTG" include drill pipe. Separate data on drill pipe are presented in table A-2 and data on OCTG excluding drill pipe are presented in table A-3.

[9] Views of the Commission, p. 15, fn. 42.

[10] API, *Specification for Casing and Tubing (4th. ed.)*, Nov. 1992, pp. 12-15 and 73; API, *Specification for Drill Pipe (3rd. ed.)*, Aug. 1992, pp. 6 and 18. Casing is most frequently sold in lengths of 34-48 feet, tubing in lengths of 28-32 feet, and drill pipe in lengths of 27-30 feet (26.5 feet for heavy-weight drill pipe). Interview and plant tour with ***.

[11] The drill string is composed of drill pipe, drill collars, and the drill bit. Drill collars are thick, machined pipes which are designed to concentrate weight on the drill bit; the drill bit is the cutting or pulverizing head which bores through underground formations.

sizes of casing are set inside the well after it has been drilled, with the larger sizes set at the top of the well and the smaller sizes set toward the bottom.[12]

Tubing is used within the casing to conduct the oil or gas from the subsurface strata to the surface either through natural flow or through pumping. Tubing must be strong enough to support its own weight, that of the oil or gas, and that of any pumping equipment suspended on the string.

Drill pipe is used to transmit power from ground level to below the surface in order to rotate the drill bit, and to conduct drilling fluid (mud) down to the drill bit to flush drill cuttings to the surface for removal. Drill pipe must have sufficient tensile strength to support its own weight, the weight of the contained drilling fluids, and that of drill collars and the drill bit. Heavy-weight drill pipe has greater wall thickness than standard-weight (about three times the thickness for a given O.D.) and is used in critical applications (such as directional drilling) as a transitional drill string member between standard-weight drill pipe and drill collars to provide both weight and flexibility.[13]

Common Manufacturing Facilities and Production Employees

All OCTG are either of welded or seamless construction. API specifications for most grades of casing and tubing specify that either welded or seamless is acceptable for its end-use application. Exceptions include drill pipe and extremely thick casing, which the API specifies must be seamless.

Seamless OCTG are produced by forming a central cavity in a solid steel round of the desired grade, diameter, and weight, either by piercing a heated steel round or drilling an unheated round. The hollow round, or billet, is then shaped and elongated, either by a succession of plug mills (or mandrel mills) and sizing mills, or by hot-extruding the billet through a die and over a mandrel.[14]

Welded OCTG are formed by passing flat-rolled products through a series of rollers that shape the products into cylinders, then heating the lengthwise edges to a very high temperature with an electric resistance welder and forcing them together under pressure exerted by rolls.[15] After welding, the tubes are heat-treated, either by "full-body normalizing" or "seam annealing." In the full-body normalizing process, an entire tube is heated to a very high temperature to make the molecular structure of the weld identical to that of the rest of the tube, whereas in the seam annealing process, several inches of a pipe along each side of the weld are heated to a high temperature. Regardless of the welding process, the wall thicknesses of all welded OCTG are uniform, whereas the wall thicknesses of seamless OCTG are less uniform.

After the welded or seamless tubular product is formed, it is generally straightened, inspected, and tested. The product then may either be sold as is or it may undergo additional operations before sale, including heat treating, further testing, and coating.[16]

---

[12] In general, the deeper the well, the larger the casing must be. Telephone interview with ***, Aug. 2, 1994. Several U.S. producers stated that there is a continuum of different sizes of casing with no clear dividing line between the large and small sizes and that different sizes of casing are used in the same well. Because of this, they view different sizes of casing as the same product. The U.S. producers produce a wide range of casing sizes, from 4.5 inches to 20 inches in diameter. USS/KOBE, Lone Star, Newport, and LTV produce the larger, as well as the smaller sizes of OCTG. Telephone interviews with ***, Aug. 3, 1994, and ***, Aug. 4, 1994.

[13] Telephone interviews with ***, Feb. 24, 1995.

[14] American Iron & Steel Institute, *Steel Products Manual: Steel Specialty Tubular Products*, Oct. 1980, p. 16. Interview and plant tour with ***, Jan. 25, 1995.

[15] For some large-diameter (over 24 inches) OCTG used in offshore drilling, the lengthwise edges of the cylinders are connected using molten metal from a welding rod in a process known as submerged arc welding.

[16] In general, the higher the alloy content and the more specialized or proprietary the product, the greater the number of additional processes that will be required.

After finishing operations on the tube are complete, the ends are finished. Two general end finishes for casing are "threaded and coupled" and "plain end." End finishes for tubing include threaded and coupled, non-upset or upset,[17] or plain end. These end finishes for tubing and casing are provided both by the U.S. mills and by separate U.S. finishers. For drill pipe, the tubular product is typically formed to customer specifications by the U.S. mill; however, the ends are generally upset and the tool joints (heavy welded joints which allow drill pipe to be stacked) applied by drill pipe finishers. These drill pipe finishers are either contracted by the U.S. producers to perform these processes or, more often, they provide these services for the end users.[18] The drill bits are then attached to the tool joint by the end user at the well site.[19]

As noted previously, drill pipe must be a seamless tubular product. Accordingly, only 5 of 16 reporting mills that produce OCTG in the United States produce drill pipe. Four of those five mills indicated that they produced drill pipe on the same equipment and machinery used in the production of other OCTG (i.e., casing and/or tubing). These same four mills also indicated that the same production and related workers produced both drill pipe and other forms of OCTG.[20]

Interchangeability

In certain instances, unfinished casing and tubing can be used interchangeably with unfinished drill pipe. U.S. Steel produces unfinished tubes which may be used for either tubing or drill pipe,[21] as does ***. U.S. shipments of such tubing by these companies ranged from *** to *** short tons between 1992 and 1994 and were equivalent to between *** and *** percent of U.S. shipments of unfinished drill pipe reported by U.S. mills. Interchangeability can be limited, however, by differences in wall thickness and length.[22] Further, the likelihood of interchangeability between casing and tubing and drill pipe diminishes as the products are finished.[23]

---

[17] Upset ending is a forging process under which the end of the tubing is flared and thickened, and thereby strengthened, to compensate for the tensile strength that is lost during threading.

[18] No U.S. mill applies tool joints to drill pipe in-house.

[19] Interviews and plant tours with ***.

[20] Producers' questionnaire at 9 and 24. The one company which does not produce drill pipe on the same equipment and with the same workers as other forms of OCTG is ***. This company accounted for *** percent of drill pipe production by U.S. mills in 1994. ***.

[21] Conference transcript, p. 18.

[22] Interviews and plant tours with ***, Jan. 24, 1995, and ***, Jan. 25, 1995. Japanese respondents also argue that drill pipe is not interchangeable with casing and tubing because of chemistry and torque requirements. Posthearing brief on behalf of NKK and MC Tubular, pp. 3-6.

[23] Donald Dabkowski, Manager of Metallurgy and Quality Assurance in U.S. Steel's Tubular Products Division, testified at the Commission's hearing that, with the addition of the tool joint, "then it (the tube body) does become drill pipe, which is then not interchangeable with anything else but drill pipe." Hearing transcript (public session), p. 59. Mr. Dabkowski also noted that torsional requirements for drill pipe are a feature of the finished product ("Those torsional requirements come as part of specification 7, which deals with the connection on the end."). *Ibid.* According to ***, drill pipe can only be used as drill pipe because the wall thickness relative to the diameter of the pipe is too large for it to be used practically for casing or tubing. He added, however, that in shallow wells tubing can be substituted for drill pipe. Telephone interview, Aug. 2, 1994. Such substitution would be infrequent, however, according to Vice President and Chief Engineer Alan Orr of international drilling contractor Helmerich and Payne, who testified that "if there is any meaningful resistance at the bottom of the hole, tubing cannot be used (as drill pipe)." Hearing transcript (public session), p. 169.

Customer and Producer Perceptions

Customer perceptions regarding the interchangeability of casing and tubing and drill pipe were mixed but generally indicated limited interchangeability. Of the 27 distributors who addressed the question, only 6 indicated that drill pipe specifically could be interchangeable with casing or tubing, and only 2 discussed specific instances of such occurrences.[24] Another 4 companies indicated interchangeability between casing and tubing but not drill pipe, while 14 indicated no interchangeability between casing or tubing or drill pipe, and 3 indicated that the matter was one for the end user to decide. As noted earlier, producer perceptions on this issue were also mixed.

Opinions also differ within the OCTG industry as to whether substitutes for OCTG exist. When asked whether other products could be substituted, 7 of 11 producers that responded to the question, 4 of 24 importers, and 13 of 41 purchasers stated that some substitution is possible. Line pipe or refurbished OCTG for use in limited service applications were the most commonly cited substitutes. Other substitutes mentioned included fiberglass tubing, coiled tubing, structural rounds, and aluminum drill pipe in place of steel drill pipe. Most of the questionnaire respondents stated that changes in the prices of these substitute products have not affected the demand for OCTG. *** argued that low prices of these substitutes have resulted in reduced sales of casing and tubing.

Channels of Distribution

Most OCTG are sold by U.S. mills and by U.S. importers to distributors which, in turn, sell to other distributors or to end users. This is true of OCTG generally and drill pipe specifically, with one important caveat -- the distributors which purchase and resell casing and tubing do not, as a general rule, sell drill pipe. Some, though not all, companies which purchase drill pipe also purchase casing or tubing.[25] The following tabulation presents a summary of the channels of distribution reported by U.S. mills and by U.S. importers for OCTG generally (and drill pipe specifically) in 1994 (in percent):

Country	OCTG		Drill pipe only	
	Distributors[1]	End users	Distributors[1]	End users
United States	99	1	***	***
Argentina	***	***	***	***
Austria	***	***	---	---
Italy	***	***	---	---
Japan	57	43	***	***
Korea	100	0	---	---
Mexico	99	1	***	***
Spain	***	***	---	---
Other	80	20	---	---

[1] Includes processors.

---

[24] Purchasers' questionnaire at 27. ***. In a series of followup interviews, 23 purchasers were re-contacted. Four firms indicated that unfinished casing or tubing could be interchangeable with unfinished drill pipe, while 19 indicated that it could not. All 23 firms indicated that finished casing and tubing could not be interchangeable with finished drill pipe, although seven indicated that used drill pipe could be converted for casing applications if the ends were cut off.

[25] The primary market for unfinished drill pipe in the United States is *** drill pipe processors in Texas. ***. Twenty-eight of 41 responding distributors (including the drill pipe processors themselves) sell both casing and tubing but do not sell drill pipe; 5 sell casing or tubing but not drill pipe; 5 sell casing and/or tubing and drill pipe; and 3 sell only drill pipe.

The Commission received letters from 24 companies which identified themselves as OCTG stocking distributors which were unable to purchase their full OCTG requirements from domestic mills. Based on the responses of the 13 firms which provided usable data to the Commission, the share of 1994 OCTG purchases filled by U.S. mills ranged from between 4 and 85 percent and averaged 62 percent. The major U.S. mills also provided information regarding their distribution policies, summarized in the following tabulation:

Company	Distributors	Exclusive	Stock/purchase level	Other criteria
***	13	***	***	***
***	37	***	***	***
				***
				***
***	8	***	***	***
				***
				***
***	13	***	***	***
				***
				***
***	11	***	***	***
				***
				***
***	42	***	***	***
				***
				***
***	11	***	***	***
				***
				***

Price

During the period for which data were collected, prices for unfinished casing and tubing generally ranged between $450 and $1,000 per short ton and prices for unfinished drill pipe ranged from $500 and $850 per ton for standard-weight and $950 and $1,150 for heavy-weight product. Prices for finished casing generally ranged from $500 to $900 per short ton and prices for finished tubing ranged between $650 and $1,100 per short ton. The prices for finished drill pipe (both standard-weight and heavy-weight), however, generally exceeded $2,000 per short ton. Specific data on pricing are discussed in greater detail in the section of this report entitled "Prices."

Intermediate Products

In its preliminary views, the Commission invited parties to address the appropriateness of the finished/semifinished analysis in examining the finished versus unfinished OCTG like product issue.[26] Accordingly, the Commission requested information regarding unfinished and finished OCTG from all questionnaire recipients. For purposes of information-gathering, the Commission defined finished OCTG as those OCTG which are ready for use in an oil or natural gas well. For purposes of these investigations, casing is considered to be finished if it has been heat treated (if needed) and threaded

[26] Views of the Commission, p. 14, fn. 37.

and coupled; tubing is finished if it has been upset, heat treated (if needed), and threaded and coupled; and drill pipe is finished if it has been upset (if needed), heat treated (if needed), and tool joined. Conversely, unfinished OCTG are OCTG which are not ready for use in an oil or natural gas well because one or more of the preceding operations has not been performed.

Uses

Threaders and processors[27] reported to the Commission that the single significant use for unfinished OCTG was further finishing operations to prepare the product for subsequent drilling and extraction applications.[28] Because OCTG are perceived as premium pipes, even unfinished OCTG are rarely used for applications other than drilling for oil or natural gas.

Markets

Unfinished and finished casing and tubing are frequently sold in the same market, even to the same customers. According to questionnaire responses from OCTG purchasers, 24 of 38 distributors purchased both unfinished and finished OCTG.[29]

Virtually all unfinished drill pipe is purchased by drill pipe processors. Once the drill pipe has been upset (if needed), heat treated, and tool joined, it is sold to the same types of end users (drilling contractors and turn-key operators) which purchase mill-finished OCTG.

Transformation Processes

Casing, tubing, and drill pipe undergo somewhat different levels of transformation during the finishing process. Casing is simply heat treated and then threaded and coupled. Tubing is generally upset first, then heat treated and threaded and coupled. Most drill pipe is also upset and heat treated but then tool joints are welded onto drill pipe.

Characteristics and Functions

The physical characteristics of finished OCTG differ from those of unfinished OCTG based on the changes made to the ends of the unfinished product to make it suitable for drilling and extraction applications. As noted above, changes in the physical characteristics are least pronounced in casing and most pronounced in drill pipe.[30] Unfinished OCTG have no function other than transformation into finished OCTG.

---

[27] "Threaders" are companies that thread or thread and couple casing and tubing. "Processors" are generally companies which heat treat OCTG (including drill pipe), although as used in this report, the term "processor" also includes finishers of heavy-weight drill pipe, which is not heat-treated but does require extensive machining. Some processors thread, couple, and heat treat OCTG as well.

[28] With a single exception, responding finishers reported no purchases of unfinished OCTG for purposes other than processing/finishing such OCTG. One of 12 responding threaders noted that "we purchase non-API, reject, and secondary OCTG, which we sell into the structural markets." Processor/finishers' questionnaires at 8. Additionally, 1 of 14 responding processors noted that it purchased OCTG for the manufacture of pup joints (pipe which is shorter than standard length). *Ibid.*

[29] Purchasers' questionnaires at 7.

[30] Some casing, tubing, and drill pipe are heat treated, a process which does not alter the appearance of the product but does establish the grade of the product. Additionally, heavy-weight drill pipe is literally machined down (either uniformly or in a spiral pattern), leaving a raised center and ends.

Value Added

The value added to OCTG by finishing operations varies widely, depending on the type of product being finished, the weight per piece of the unfinished product, and the level and type of finishing required by the customer. The different finishing procedures for casing, tubing, and drill pipe have a direct bearing on the value of the finished product. Additionally, even products that undergo the same finishing procedures may have noticeably different levels of value added on a per-ton basis (the lower the weight per piece of unfinished OCTG product, the higher the value added will be on a per-ton basis). Also, not all customers require fully-finished product. Finally, certain finishers apply high-performance or patented finishes that command a premium in the market.

The Commission requested OCTG finishers to provide data on both their toll and non-toll operations. Based on these data, the value added by the reporting non-toll processors in 1994 ranges from *** to *** percent, and averages 32.2 percent. Including SG&A in the conversion costs increases the average value added to 36.3 percent.[31] The value added by the reporting non-toll threaders in 1994 ranges from *** to *** percent, and averages 21.8 percent. The value added is a ratio of the conversion costs (labor and factory overhead) over total cost of goods sold. Therefore, threaders that purchase unfinished OCTG and additional raw materials, such as couplings, may have a relatively low value added. Including SG&A in the conversion costs increases the average value added by threaders to 29.2 percent.[32]

THE DOMESTIC MARKET

Apparent U.S Consumption

Data concerning apparent U.S. consumption of OCTG were compiled from responses to Commission questionnaires and from the official import statistics of Commerce.[33] To avoid double-counting, consumption data do not include U.S. sales of refurbished OCTG.[34] [35] The data are presented in table 2.

---

[31] Tolling operations by processors are not included in this calculation, since toll processors do not purchase the unfinished OCTG. In 1994, the finishing fees charged by toll processors ranged from $*** per ton for U.S. mills and $*** per ton for U.S. importers to $*** for U.S. distributors or end users.

[32] Tolling operations by threaders are not included in this calculation, since toll threaders do not purchase the unfinished OCTG. In 1994, the finishing fees charged by toll threaders ranged from $*** per ton for U.S. mills and $*** per ton for U.S. importers to $*** for U.S. distributors or end users.

[33] The U.S. industry data presented in this report are compiled from 16 reporting mills which account for virtually all U.S. OCTG production, including all U.S. drill pipe production. Data for U.S imports of OCTG from Argentina, Austria, Italy, Japan, Korea (excluding Hyundai Pipe), and Spain are based on the questionnaire responses of companies which account for virtually all imports of subject OCTG from those countries. Data for U.S. imports of OCTG from Mexico are compiled from Commerce's official statistics, as are data for U.S. imports from other (nonsubject) countries. In addition, questionnaire data from Hyundai Pipe are included with data for other (nonsubject) countries. Consumption is calculated based on U.S. imports, rather than U.S. shipments of imports, in order to exclude the value of finishing operations performed in the United States on imported product.

[34] Sixteen of 43 distributors reported purchasing commercial quantities of refurbished OCTG. Data from the 14 companies able to provide data or estimates on their purchases of refurbished OCTG indicate that such purchases increased from 48,508 short tons in 1992 to 52,054 short tons in 1993 and 52,245 in 1994. Reported purchases fell from 14,673 short tons in Jan.-Mar. 1994 to 10,992 short tons in Jan.-Mar. 1995.

[35] However, consumption does include *imports* of *used* OCTG from Mexico in 1994. ***.

Table 2
OCTG: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.-- 1994	1995
	Quantity (*short tons*)				
Producers' U.S. shipments	1,052,661	1,492,631	1,394,128	314,424	365,702
U.S. imports from--					
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	44,445	113,790	116,164	25,938	***
Korea (LTFV)	***	***	***	***	***
Mexico	1,415	39,094	39,986	7,961	8,337
Spain	***	***	***	***	***
Subtotal	***	***	***	***	***
Other sources	***	***	***	***	***
Total	101,649	339,285	333,472	78,441	47,485
Apparent consumption	1,154,310	1,831,916	1,727,600	392,865	413,187
	Value (*1,000 dollars*)				
Producers' U.S. shipments	615,832	884,182	838,626	188,042	231,360
U.S. imports from--					
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	48,095	97,520	97,782	20,666	***
Korea (LTFV)	***	***	***	***	***
Mexico	818	20,091	18,558	4,133	3,756
Spain	***	***	***	***	***
Subtotal	***	***	***	***	***
Other sources	***	***	***	***	***
Total	90,968	240,937	229,140	51,138	34,091
Apparent consumption	706,800	1,125,119	1,067,766	239,180	265,451

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires and from official statistics of Commerce.

In general, the demand for OCTG depends on the level of drilling activity, which is determined by a number of factors, including the price of oil and gas.[36] Oil drilling activity in the United States declined from 1991 to 1992, but increased in 1993 and most of 1994. An increase in 1993 for natural gas prices in response to two extremely cold winters on the East Coast encouraged this increase in drilling activity (based on the average active rig count).[37] The very mild weather during the most recent winter season led to a decline in drilling activity from the end of calendar year 1994 through the end of the first quarter of 1995 (based on the average active rig count).[38] The majority of U.S. drilling for oil and natural gas occurs in the southern and southwestern states and it is in this area that the majority of U.S. OCTG distributors are located. Data on drilling activity, measured in terms of the active rig count and in terms of feet drilled, are presented in figure 1 and figure 2, respectively.

U.S. Producers

U.S. Mills

The Commission sent producers' questionnaires to 30 firms identified by the petitions and industry directories as U.S. producers of OCTG. Sixteen firms, accounting for virtually all OCTG production by mills in the United States, responded with data, and 13 confirmed that they produced no OCTG between January 1992 and March 1995.[39] Table 3 presents each firm's position on the petitions, share of U.S. production in 1994, location of U.S. production facilities, and parent company. The types of OCTG produced by each firm are presented in the following tabulation.

Firm	Types of OCTG
Allied	Welded casing and tubing
Bellville	Welded casing and tubing
Camp Hill	Welded casing
CF&I	Seamless casing
IPSCO	Welded casing and tubing
Koppel	Seamless casing, tubing, and drill pipe
Lone Star	Welded casing and tubing
LTV	Welded casing
Maverick	Welded casing and tubing
Newport	Welded casing
North Star	Seamless casing and drill pipe
Quanex	Welded casing and tubing
Sawhill	Welded tubing
Timken	Seamless drill pipe
U.S. Steel	Seamless casing, tubing, and drill pipe
USS/KOBE	Seamless and welded[1] casing, tubing, and drill pipe

[1] USS/KOBE's welded facility was idled indefinitely in 1992.

---

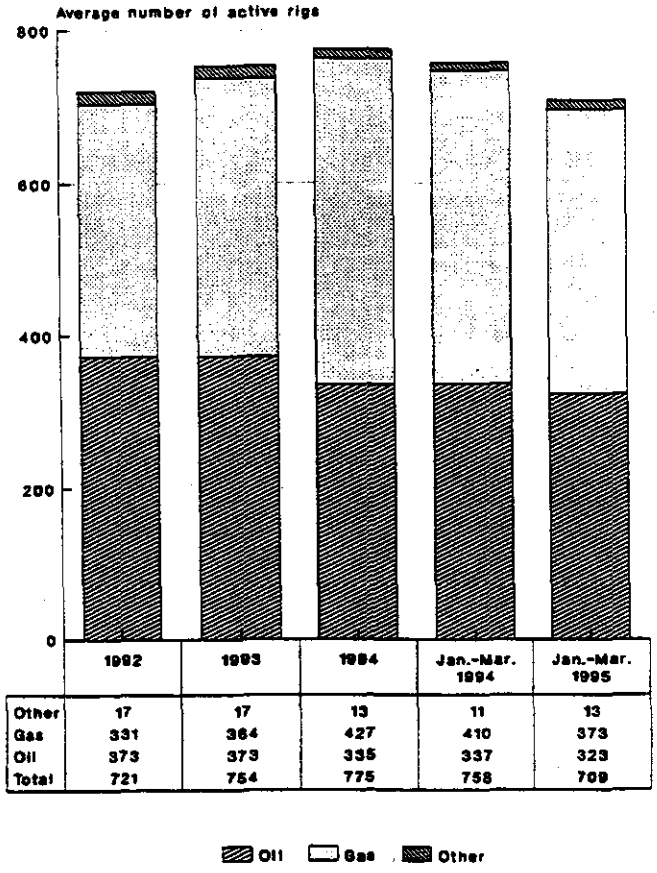
[36] Other factors that may affect demand for OCTG in the United States are the depth and drilling conditions of the wells and level of inventories maintained by producers, importers, distributors, and end users. Conference transcript, p. 91, and the 1993 10K Report of the NS Group.

[37] The increase was also stimulated, in part, by the elimination of the federal alternative minimum tax on independent oil companies. Conference transcript, pp. 102-104.

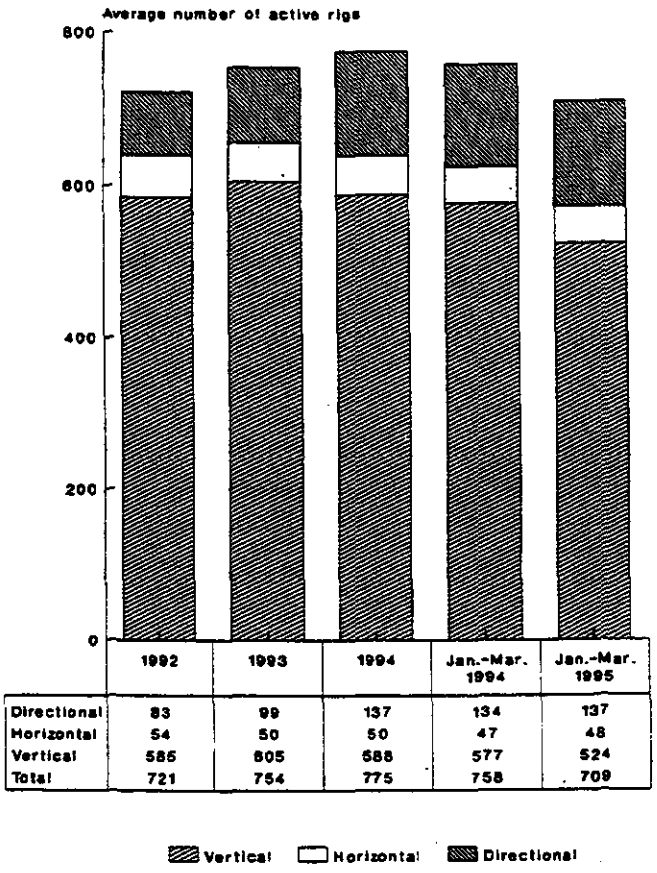
[38] Total footage drilled, however, actually declined in 1994, as well as between Jan.-Mar. 1994 and Jan.-Mar. 1995.

[39] ***.

Figure 1
U.S. active rig count: Average number of active rigs in the United States, by type of rig and by type of drilling, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995



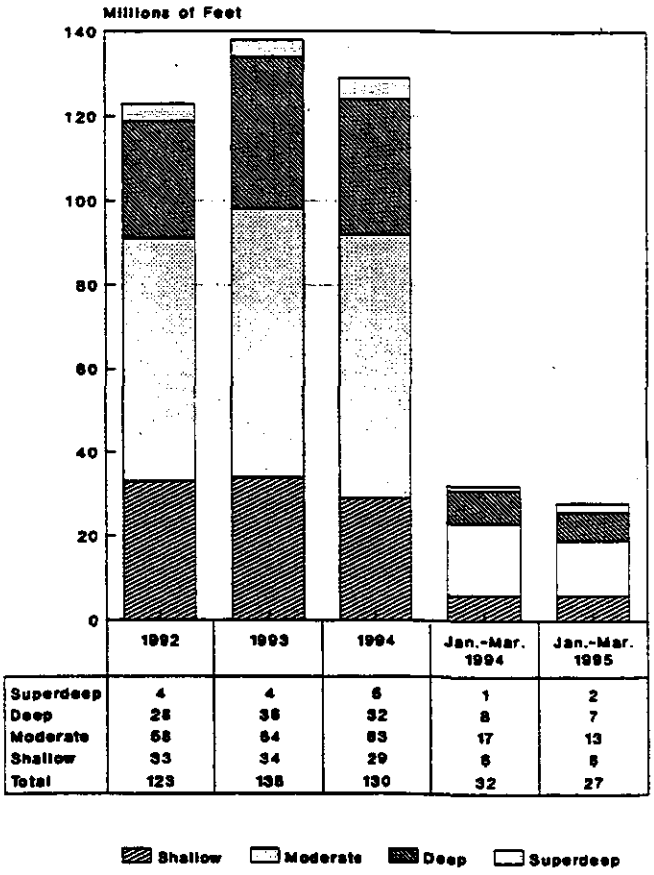
	1992	1993	1994	Jan.-Mar. 1994	Jan.-Mar. 1995
Other	17	17	13	11	13
Gas	331	364	427	410	373
Oil	373	373	335	337	323
Total	721	754	775	758	709

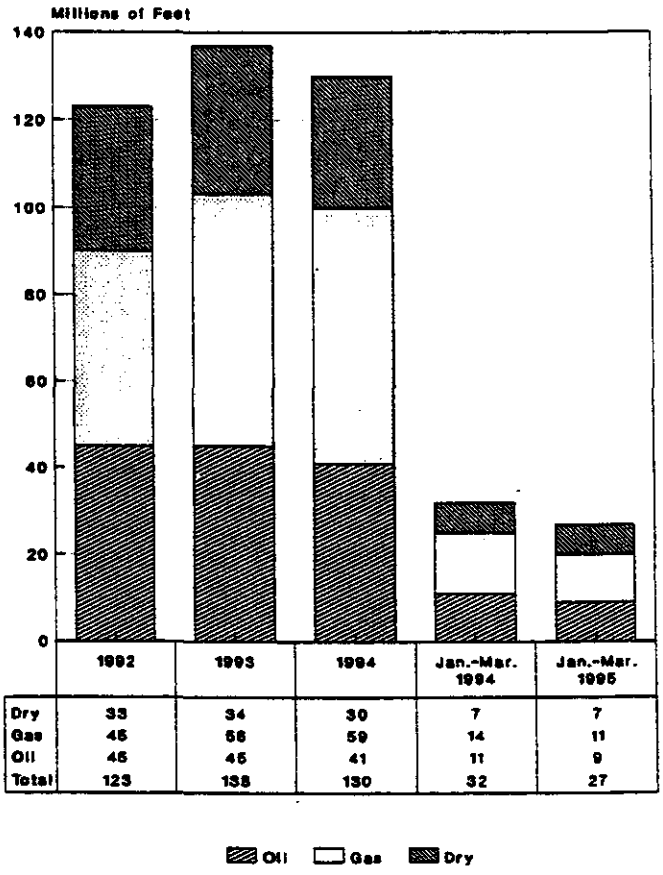


	1992	1993	1994	Jan.-Mar. 1994	Jan.-Mar. 1995
Directional	83	99	137	134	137
Horizontal	54	50	50	47	48
Vertical	585	605	588	577	524
Total	721	754	775	758	709

Source: Spears & Associates, Inc., *Drilling and Production Quarterly Review 1995*, Mar. 1995, pp. 16 and 19.

Figure 2
U.S. drilling activity: Total footage drilled in the United States, by depth type and by type of well, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995





Source: Spears & Associates, Inc., *Drilling and Production Quarterly Review 1995*, Mar. 1995, p. 17.

Table 3
OCTG: U.S. producers, positions on the petitions, shares of reported 1994 U.S. production, U.S. production locations, and parent companies

Firm	Position	Share of production	Production location	Parent company and country
		Percent		
Allied	***	***[1]	Liberty, TX	Grinnell (US)
Bellville[2]	Petitioner	***	Bellville, TX	Bellville (US)
Camp Hill	***[3]	***	McKeesport, PA	Camp Hill (US)
CF&I	***[4]	***	Pueblo, CO	Oregon Steel (US)
IPSCO	Petitioner	***	Camanche, IA	IPSCO (Canada)
Koppel	Petitioner	***	Ambridge, PA[5]	NS Group (US)
Lone Star	Petitioner	***	Lone Star, TX	Lone Star (US)
LTV	***	***	Counce, TN	LTV (US)
Maverick	Petitioner	***	Conroe, TX Blytheville, AR[6] Chesterfield, MO	Maverick (US)
Newport	Petitioner	***	Wilder, KY	NS Group (US)
North Star	Petitioner	***	Youngstown, OH Houston, TX	Cargill (US)
Quanex	***	***[7]	Bellville, TX	Quanex (US)
Sawhill	***	***	Sharon, PA	Armco (US)
Timken	***	***	Canton, OH	Timken (US)
U.S. Steel	Petitioner	***	Fairfield, AL	USX (US)
USS/KOBE[8]	Petitioner	***	Lorain, OH	USX (US (50)) Kobe (Japan (50))
Total		100.0		

[1] Allied ***.
[2] These facilities were sold by Quanex to Bellville in Apr. 1993.
[3] ***.
[4] ***.
[5] NS Group, parent corporation of Koppel, acquired the former Babcock and Wilcox facilities in Oct. 1990 and these facilities became operational in Feb. 1991. In addition, ***.
[6] Maverick's facility in Union, MO, was closed and relocated to Blytheville, AR, in 1993.
[7] ***.
[8] The joint venture between USX and Kobe was formed on July 1, 1989.

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. Finishers[40]

There are currently about 12 active, independent establishments in the United States that are certified by the API to heat treat casing and tubing to API specification 5 C/T (5 of which are also certified to heat treat drill pipe to API specification 5 D) and 50 that are certified to thread or thread and couple casing and tubing to API specification 5 C/T. There are also several firms which finish heavy-weight drill pipe or which apply proprietary threads, neither of which require API certification to API specifications 5 D or 5 C/T. These establishments are concentrated in Texas and Louisiana.[41]

[40] The Commission indicated its intention to explore whether finishers or processors of unfinished OCTG should be included within the definition of the domestic industry in terms of six factors: capital investment; technical expertise; value added; employment; parts sourced in the United States; and other costs and activities. Views of the Commission, pp. 16-17, fn. 45.

[41] Fifteen threaders, 1 ***, and 14 processors (including ***) responded to the Commission's processors/ finishers' questionnaires. Five threaders and 7 processors support the petition (the support of 2 processors is conditional); 2 threaders and 2 processors oppose it; and the remainder of the responding firms choose neither to support nor oppose the petition.

According to the data received by the Commission, over three-quarters of the processing of OCTG in the United States is performed on a toll basis. In 1994, eight companies reported toll processing 330,418 short tons of OCTG, primarily for U.S. mills and secondarily for U.S. importers. Also in 1994, four companies reported purchasing and processing *** short tons of OCTG (divided nearly evenly between drill pipe and casing and tubing). The following tabulation presents the identities of the U.S. processors, their positions on the petitions, shares of reported 1994 U.S. processing, shares of reported 1994 company purchases of unfinished OCTG from importers, and outside ownership.

* * * * * * *

Nearly three-quarters of the threading activity in the United States is performed on a toll basis. In 1994, seven companies reported toll threading 108,747 short tons of new OCTG, primarily on behalf of U.S. distributors or end users.[42] Also in 1994, four companies reported purchasing and end-finishing *** short tons of OCTG. The following tabulation presents the identities of U.S. threaders, their positions on the petitions, shares of reported 1994 U.S. threading activity, shares of reported 1994 company purchases of unfinished OCTG from importers, and outside ownership.

* * * * * * *

The most common source of capital investment noted by U.S. finishers was bank financing, followed by domestic parent companies, foreign parent companies, and owner or private financing. Smaller facilities with heat-treating capabilities reported capital investment of between $*** million and $*** million, but the largest such facility reported a capital investment of $*** million.[43] Threaders reported capital investment ranging between $*** million and $*** million.

The level of technical expertise involved in finishing activities varies greatly from firm to firm, although the range is wider among companies which limit their activities to cold end finishing (threading and/or coupling) than among firms which perform hot end finishing (upsetting) or body finishing (heat-treating or machining). Firms with heat-treating capabilities for casing and tubing and for drill pipe generally reported higher levels of technical expertise (frequently citing metallurgical or engineering skills). Several threaders reported modest technical requirements (e.g., "a sixth-grade education" or "trade school"), others reported moderate requirements (a general knowledge of API requirements or inspection techniques), and a few reported stringent requirements (usually related to research and development, computer use, design, or engineering).

Value added by finishers is discussed in the section of this report entitled "Value Added" and employment levels are presented in the tabulation below (number of production and related workers):[44]

				Jan.-Mar.--	
Finishers	1992	1993	1994	1994	1995
Processors	886	1,161	1,190	1,202	1,205
Threaders	385	350	399	330	320
Total	1,271	1,511	1,589	1,532	1,525

[42] Many companies that are licensed to thread or thread and couple OCTG actually refurbish used OCTG instead of, or in addition to, finishing new OCTG. Accordingly, many companies certified as API 5 C/T threaders could not provide data limited to their finishing operations.

[43] Drill pipe processors reported capital investment of between $*** million and $*** million.

[44] Financial and employment data for threaders and processors are not included in data presented for OCTG throughout this report or in summary tables A-1 through A-3; such data are aggregated with data from U.S. mills in summary tables A-4 through A-9.

Finishers source few parts other than unfinished OCTG in the United States, primarily couplings, thread protectors, or, for drill pipe processors, tool joints. The following tabulation presents the parts (other than unfinished OCTG) sourced by finishers in the United States (in short tons):

Finishers	1992	1993	1994	Jan.-Mar.- 1994	Jan.-Mar.- 1995
Processors:					
Couplings	1,459	1,652	1,867	1,396	1,439
Thread protectors	***	***	***	***	***
Tool joints[1]	***	***	***	***	***
Threaders:					
Couplings	1,655	1,677	2,170	471	402
Total	8,506	10,404	10,378	3,557	4,440

[1] Drill pipe processors' reported purchases of imported tool joints ***.

There are no other reported costs or activities in the United States directly leading to the production of OCTG.

U.S. Importers

The Commission sent questionnaires to 51 firms requesting information concerning U.S. imports of OCTG.[45] These firms were identified in the petitions as importers of the subject product[46] or by Customs as importers of products falling within the same HTS numbers provided in the petitions. Of the questionnaire recipients, 40 firms responded to the Commission's request, although not all of the responses were fully usable. Five firms indicated that they did not import OCTG, and six firms did not respond to the Commission's request. In these investigations, the import data collected through questionnaire responses represent virtually all of the subject imports from Argentina, Austria, Italy, Japan, Korea, and Spain.[47] In addition, incomplete information was received concerning U.S. imports of OCTG from Mexico and from nonsubject countries. Therefore, this report presents questionnaire data for U.S. imports of the subject merchandise from Argentina, Austria, Italy, Japan, Korea (excluding Hyundai), and Spain and official import statistics for U.S. imports of OCTG from Mexico and from other sources (to which imports of OCTG from Korea by Hyundai have been added).

Only one company imports OCTG from Austria: Voest-Alpine, which is wholly owned by ***.

Of the five companies which have imported OCTG from Italy since 1992, only *** reported ***. Three of the five importers of Italian OCTG ***.

Of the thirteen companies which have imported OCTG from Japan since 1992, *** reported ownership by a Japanese parent company. For *** of those companies, the Japanese parent

[45] The Commission also sent importers' questionnaires to the 30 firms to which it sent producers' questionnaires. Only one firm, ***, reported a small quantity of imports of OCTG from Canada.

[46] Several firms identified in the petitions as importers of the subject merchandise were not sent a questionnaire because they could not be located.

[47] Based on a comparison of questionnaire data with Commerce's official statistics on imports for consumption. The level of Japanese imports of subject OCTG were lower than Commerce's official statistics, due largely to the inclusion of OCTG with a chromium content of 10.5 percent or greater in Commerce's data.

company owned 80 percent or more of the U.S. importer. *** of the companies which import OCTG from Japan import the products from other countries.

Of the seven companies which have imported OCTG from Korea since 1992, six reported ownership by a Korean parent company or companies, with total ownership by Korean parents ranging from *** to *** percent. ***.

Siderca, the only U.S. importer of OCTG from Argentina, is owned by Siderca International of Curacao (*** percent), Industrial Investments, Inc., of Luxembourg (*** percent), and Sidertubes, S.A. of Luxembourg (*** percent). In June 1993, Siderca International also purchased *** percent of Tamsa S.A, one of two OCTG producers in Mexico and the parent company of the U.S. importer, Tamsa. No importer of Mexican OCTG other than Tamsa reported ownership by another company. Finally, Tubos Reunidos, the *** importer of OCTG from Spain, is ***.

Most of the U.S. importers of OCTG are in Texas, primarily in the Houston area. Other common office locations include California, New York, and New Jersey, while less common locations include Alaska, Illinois, Louisiana, Michigan, Missouri, and Ohio.

CONSIDERATION OF ALLEGED MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

U.S. Production, Capacity, and Capacity Utilization

Data concerning U.S. capacity, production, and capacity utilization of OCTG are presented in table 4. Capacity data reported were calculated based on firms operating from 80 to 168 hours per week, 50 to 52 weeks per year.[48] Virtually all of the U.S. producers of OCTG have the capability to produce other products on the same equipment and machinery that is used to produce OCTG. These other products include line pipe, standard pipe, specialty tubing, structural tubing, mechanical tubing, piling pipe, conduit hollows, and redraw hollows.

U.S. Producers' Shipments

Shipments of U.S.-produced OCTG are presented in table 5. Most U.S. shipments reported by U.S. mills consisted of open-market shipments to unrelated distributors.[49]

U.S. Producers' Inventories

End-of-period inventories of OCTG held by U.S. producers are presented in table 6. Only *** U.S. mills, ***, did not hold inventories during the period for which data were collected. *** described their OCTG production activities as "make-to-order." The Commission also collected data on end-of-period outstanding orders (or order backlogs) by U.S. mills, as presented in the following tabulation (in short tons):

				Jan.-Mar.–	
	1992	1993	1994	1994	1995
Backlog	91,954	94,465	92,707	74,400	89,305

[48] Most U.S. mills reported operating 80, 120, or 160 hours per week; 9 mills reported operating 50 weeks per year, while 3 mills reported 51 and 3 reported 52 weeks per year.

[49] *** reported shipments to ***.

Table 4
OCTG: U.S. capacity, production, and capacity utilization, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.-- 1994	1995
Average-of-period capacity (*short tons*)	2,490,024	2,522,082	2,611,224	656,857	660,700
Production (*short tons*)	1,214,227	1,610,536	1,527,091	351,499	405,271
Capacity utilization (*percent*)	48.8	63.9	58.5	53.5	61.3

Source: Compiled from data submitted in response to Commission questionnaires.

Table 5
OCTG: Shipments by U.S. producers, by types, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.-- 1994	1995
	Quantity (*short tons*)				
Company transfers	0	0	0	0	0
Domestic shipments	1,052,661	1,492,631	1,394,128	314,424	365,702
Subtotal	1,052,661	1,492,631	1,394,128	314,424	365,702
Exports	175,488	85,901	140,919	14,411	22,325
Total	1,228,149	1,578,532	1,535,047	328,835	388,027
	Value (*1,000 dollars*)				
Company transfers	0	0	0	0	0
Domestic shipments	615,832	884,182	838,626	188,042	231,360
Subtotal	615,832	884,182	838,626	188,042	231,360
Exports	109,546	49,534	81,152	8,332	14,290
Total	725,378	933,716	919,778	196,374	245,650
	Unit value (*per short ton*)				
Company transfers	(1)	(1)	(1)	(1)	(1)
Domestic shipments	$585.02	$592.36	$601.54	$598.05	$632.65
Average	585.02	592.36	601.54	598.05	632.65
Exports	624.24	576.64	575.88	578.17	640.09
Average	590.63	591.51	599.19	597.18	633.07

[1] Not applicable.

Source: Compiled from data submitted in response to Commission questionnaires.

Table 6
OCTG: End-of-period inventories of U.S. producers, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.-- 1994	1995
Quantity (*short tons*)	165,360	197,234	189,278	219,898	206,522
Ratio to production (*percent*)	13.6	12.2	12.4	15.6	12.7
Ratio to U.S. shipments (*percent*)	15.7	13.2	13.6	17.5	14.1
Ratio to total shipments (*percent*)	13.5	12.5	12.3	16.7	13.3

Note.--Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. Employment, Wages, Compensation, and Productivity

Data on U.S. employment, wages, and productivity are presented in table 7. Five U.S. OCTG mills (***) indicated that their production and related workers do not have union representation. The remainder of the U.S. producers' employees are currently represented by the United Steelworkers of America. The production and related workers that produce OCTG in the United States are also employed in the production of other products produced at the OCTG manufacturing facilities.

Financial Experience of U.S. Producers

Sixteen producers representing about *** percent of 1994 U.S. production of OCTG provided financial information for their operations on OCTG.[50] Data for North Star, accounting for *** percent of production in 1994, were verified by the Commission's staff. As a result of the verification, North Star changed the originally reported data for capacity, inventories, shipments, employment, overall establishment operations, operations on OCTG, capital expenditures, property, plant, and equipment, and sales prices to U.S. distributors. Data for U.S. Steel, accounting for *** percent of production in 1994, were also verified by the Commission's staff. As a result of the verification, U.S. Steel changed the originally reported data for property, plant, and equipment, and sales prices to U.S. distributors. Importers' data for Siderca and TAD were verified by the Commission staff. No exceptions were found.

Operations on OCTG

Income-and-loss data for U.S. producers' operations on OCTG are presented in table 8.[51]

---

[50] ***.

[51] The components of cost of goods sold (raw material, direct labor, and other factory costs) are not presented because:

1. Depending on the companies' production process and accounting methods, the components may not be comparable. ***.
2. Some of the companies account for costs by process center to arrive at cost of goods sold. For the questionnaire response, the companies accumulated the amounts for raw material and direct labor, and subtracted the total from cost of goods sold to arrive at other factory costs. ***.
3. ***.

Table 7
Average number of total employees and production and related workers in U.S. establishments wherein OCTG are produced, hours worked,[1] wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs,[2] by products, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.-- 1994	Jan.-Mar.-- 1995
	Number of employees				
All products	18,829	15,052	15,183	14,926	15,283
	Number of production and related workers (PRWs)				
OCTG	2,286	3,143	2,991	2,817	3,069
All products	10,821	11,789	12,088	11,749	12,211
	Hours worked by PRWs (*1,000 hours*)				
OCTG	5,145	6,904	6,379	1,498	1,677
All products	23,388	25,756	26,565	6,612	7,039
	Wages paid to PRWs (*1,000 dollars*)				
OCTG	80,046	113,693	106,724	23,646	29,392
All products	404,298	467,502	501,048	118,087	137,309
	Total compensation paid to PRWs (*1,000 dollars*)				
OCTG	107,132	145,391	139,052	30,803	37,546
All products	543,506	601,293	660,561	159,455	178,568
	Hourly wages paid to PRWs				
OCTG	$15.56	$16.47	$16.73	$15.79	$17.53
All products	17.29	18.15	18.86	17.86	19.51
	Hourly total compensation paid to PRWs				
OCTG	$20.82	$21.06	$21.80	$20.56	$22.39
All products	23.24	23.35	24.87	24.12	25.37
	Productivity (*short tons per 1,000 hours*)				
OCTG	236.0	233.3	239.4	234.6	241.7
	Unit labor costs (*per short ton*)				
OCTG	$88.23	$90.27	$91.06	$87.63	$92.64

[1] Includes hours worked plus hours of paid leave time.
[2] On the basis of total compensation paid.

Note.--Ratios are calculated using data where both comparable numerator and denominator information were supplied.

Source: Compiled from data submitted in response to Commission questionnaires.

Table 8
Income-and-loss experience of U.S. producers on their operations producing OCTG, fiscal years 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995[1]

Item	1992	1993	1994	Jan.-Mar.-- 1994	1995
	Quantity (*short tons*)				
Net sales	1,203,933	1,593,832	1,532,544	329,915	388,097
	Value (*1,000 dollars*)				
Net sales	707,059	937,448	918,030	196,393	245,617
Cost of goods sold	738,333	940,564	928,213	203,645	242,391
Gross profit or (loss)	(31,274)	(3,116)	(10,183)	(7,252)	3,226
Selling, general, and administrative expenses	39,245	39,867	35,724	8,975	10,125
Operating income or (loss)	(70,519)	(42,983)	(45,907)	(16,227)	(6,899)
Interest expense	***	***	***	***	***
Other expense	***	***	***	***	***
Other income items	***	***	***	***	***
Net income or (loss) before income taxes	(90,075)	(59,789)	(62,283)	(20,427)	(10,514)
Depreciation and amortization	54,263	60,686	58,186	13,572	13,877
Cash flow[2]	(35,812)	897	(4,097)	(6,855)	3,363
	Ratio to net sales (*percent*)				
Cost of goods sold	104.4	100.3	101.1	103.7	98.7
Gross profit or (loss)	(4.4)	(0.3)	(1.1)	(3.7)	1.3
Selling, general, and administrative expenses	5.6	4.3	3.9	4.6	4.1
Operating income or (loss)	(10.0)	(4.6)	(5.0)	(8.3)	(2.8)
Net income or (loss) before income taxes	(12.7)	(6.4)	(6.8)	(10.4)	(4.3)
	Number of firms reporting				
Operating losses	***	***	***	***	***
Net losses	***	***	***	***	***
Data	***	***	***	***	***

[1] All 16 responding producers provided data. ***.
[2] Cash flow is defined as net income or loss plus depreciation and amortization.

Source: Compiled from data submitted in response to Commission questionnaires.

Net sales values and quantities increased substantially from 1992 to 1993, decreased slightly in 1994 but then increased for interim 1995 compared to interim 1994. The companies incurred combined operating losses in each period. As shown in table 9, the average net sales value per-short-ton increased in each comparative period. Selected data by firm are presented in table 10. ***[52] was the only ***.

Table 9
Income-and-loss experience *(on a per-short-ton basis)* of U.S. producers on their operations producing OCTG, fiscal years 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995[1]

	(Per short ton)				
				Jan.-Mar.--	
Item	1992	1993	1994	1994	1995
Net sales	$587.29	$588.17	$599.02	$595.28	$632.88
Cost of goods sold	613.27	590.13	605.67	617.27	624.56
Gross profit or (loss)	(25.98)	(1.96)	(6.64)	(21.98)	8.31
Selling, general, and administrative expenses	32.60	25.01	23.31	27.20	26.09
Operating income or (loss)	(58.57)	(26.97)	(29.95)	(49.19)	(17.78)

[1] All 16 responding producers provided data.

Source: Compiled from data submitted in response to Commission questionnaires.

Table 10
Income-and-loss experience of U.S. producers on their operations producing OCTG, by firms, fiscal years 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

Investment in Productive Facilities

The value of property, plant, and equipment for the U.S. producers are presented in table 11. Many of the producers use the same equipment to produce other products and were unable to provide a clear separation by product.

[52] ***.

Table 11
Value of property, plant, and equipment (fixed assets) of U.S. producers used in the production of OCTG, fiscal years 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995[1]

(1,000 dollars)

Item	As of the end of fiscal year–			As of Mar. 31–	
	1992	1993	1994	1994	1995
Original cost	1,152,750	1,146,999	1,156,066	1,131,796	1,161,520
Book value	578,951	529,152	468,112	498,768	457,511

[1] The producers are ***.

Source: Compiled from data submitted in response to Commission questionnaires.

Capital Expenditures

The capital expenditures for OCTG as reported by the U.S. producers are shown in the following tabulation (in thousands of dollars):

Item	1992	1993	1994	Jan.-Mar.– 1994	1995
Capital expenditures	33,514	20,806	22,068	5,504	***

The producers are ***.

Research and Development Expenses

The U.S. producers' research and development expenses for OCTG are presented in the following tabulation (in thousands of dollars):

Item	1992	1993	1994	Jan.-Mar.– 1994	1995
Research and development	722	618	645	123	149

The producers are ***.

Capital and Investment

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of OCTG from Argentina, Austria, Italy, Japan, Korea, Mexico, and/or Spain on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix D.

CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the nature of the subsidies is presented in appendix B of this report; information on the volume and pricing of imports of the subject merchandise is presented in the section entitled "Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury;" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in the section entitled "Consideration of Alleged Material Injury to an Industry in the United States." Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

U.S. Importers' Inventories of OCTG

U.S. importers' end-of-period inventories of OCTG are presented in table 12. Data reported by importers indicate that end-of-period inventories of OCTG from all sources other than Spain ***.

Several firms reported holding inventories of OCTG from subject countries on U.S. soil but outside the customs area of the United States in FTZs during the period for which data were collected.[53] The data reported are presented in the following tabulation (in short tons):

	Dec. 31–			Mar. 31–	
	1992	1993	1994	1994	1995
Argentina[1]	***	***	***	***	***
Japan[2]	***	***	***	***	***
Total	***	***	***	***	***

[1] ***.

[2] ***.

U.S. Importers' Current Orders

The Commission asked questionnaire recipients if they had imported, or arranged for the importation of, OCTG from the countries subject to investigation for delivery after March 31, 1995.[54] As of April, ***. Importers of OCTG from Japan had arranged for the delivery of *** short tons in the second quarter of 1995, *** short tons in the third quarter, and *** short tons in the fourth quarter.[55] Importers of OCTG from Korea had arranged for the delivery of *** short tons after March 31; however *** short tons were to be imported from ***. Importers had arranged for the delivery of *** short tons from Argentina, *** short tons from Mexico, and ***.

---

[53] In addition, *** held *** tons in bonded warehouses in 1992 and *** tons in 1993.

[54] Importers' questionnaire at 7.

[55] The vast majority of these orders were for ***.

Table 12
OCTG: End-of-period inventories of U.S. importers, by sources, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.– 1994	1995
	Quantity (*short tons*)				
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	55,414	55,772	52,606	50,338	38,916
Korea (LTFV)	***	***	***	***	***
Mexico	***	***	***	***	***
Spain	***	***	***	***	***
Subtotal	92,330	92,331	86,579	85,898	62,952
Other sources	12,842	31,188	29,906	29,380	39,315
Total	105,172	123,519	116,485	115,278	102,267
	Ratio to imports (*percent*)				
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	124.7	49.6	45.3	48.5	***
Korea (LTFV)	***	***	***	***	***
Mexico	***	***	***	***	***
Spain	***	***	***	***	***
Average	***	***	***	***	***
Other sources	***	***	***	***	***
Average	101.1	36.9	38.3	38.9	54.4
	Ratio to U.S. shipments of imports (*percent*)				
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	87.9	49.9	44.4	40.6	68.3
Korea (LTFV)	***	***	***	***	***
Mexico	***	***	***	***	***
Spain	***	***	***	***	***
Average	69.9	34.4	35.7	33.1	53.3
Other sources	35.7	61.6	45.5	51.9	56.4
Average	62.6	38.8	37.8	36.4	54.5

[1] Positive figure, but less than significant digits displayed.

Note.– Ratios are calculated using data where both comparable numerator and denominator information were supplied. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to Commission questionnaires.

Ability of Foreign Producers to Generate Exports and the Availability of Export Markets other than the United States

Data for the industries producing OCTG in Argentina, Austria, Italy, Japan, Korea (excluding Hyundai Pipe), Mexico, and Spain are provided in tables 13-19. Data for drill pipe and for OCTG excluding drill pipe are presented in appendix E. A discussion of the industry in each country is provided below and on the pages following the tables.

Argentina

The industry producing OCTG in Argentina consists of two companies: Siderca S.A.I.C. (a producer of seamless casing, tubing, and standard-weight drill pipe) and Tubhier (a producer of welded casing).[56] In Siderca S.A.I.C.'s most recent fiscal year, OCTG accounted for *** percent of the company's total sales; much of the remainder was accounted for by sales of line pipe and standard pipe produced on the same equipment and machinery used to produce OCTG.[57] Siderca S.A.I.C. reported that its principal OCTG export markets other than the United States are ***.

Austria

Voest-Alpine Kindberg, a seamless casing and tubing producer, is the only mill producing OCTG in Austria. The company is currently wholly owned by the state-affiliated Austrian Industry Corp., but is scheduled to be privatized later this year. In its most recent fiscal year, OCTG accounted for *** percent of the company's total sales; the remainder was accounted for by sales of quality pipes and hollows produced on the same equipment and machinery used to produce OCTG.[58] The principal OCTG export markets other than the United States for Austrian OCTG are Eastern Europe and China.[59]

Italy

The industry producing OCTG in Italy consists of two companies: Dalmine, a seamless casing and tubing producer, and Arvedi, a welded (full-body normalized) tubing producer. In their most recent fiscal years, sales of OCTG accounted for only *** percent of total sales for Dalmine and *** percent for Arvedi. Both companies produce a variety of products on the same equipment and machinery used to produce OCTG (line pipe, standard pipe, pressure pipe, and mechanical tubing for Dalmine and gas and water pipe, mother shells, mechanical tubes, coated pipe, boiler tubes, and other applications for Arvedi).[60] Arvedi reported ***; Dalmine reported that its principal OCTG export markets other than the United States are ***.

---

[56] The Commission received data from Siderca, which accounts for the vast majority of OCTG production in Argentina and OCTG exports from Argentina to the United States (*** and *** percent, respectively), but not Tubhier.

[57] The combined capacity of Siderca S.A.I.C.'s small-diameter seamless pipe production lines is *** metric tons (*** short tons). Siderca S.A.I.C. estimates that near one-half of this capacity cannot be, or is unlikely to be, used to produce OCTG, while the remaining portion could only be used to produce unfinished (green) plain-end tubing. Argentine posthearing brief, pp. 3-4.

[58] Voest-Alpine reported that it had *** in response to environmental constraints mandated by the Government of Austria.

[59] Hearing transcript (public version), p. 229, testimony of Fritz Oberreiter, Controller, Voest-Alpine Kindberg.

[60] Dalmine noted that ***. Italian posthearing brief, app. 1, pp. 1-8.

Table 13
OCTG: Argentine capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

Table 14
OCTG: Austrian capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

Table 15
OCTG: Italian capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

Table 16
OCTG: Japanese capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

Item	1992	1993	1994	Jan.-Mar.-- 1994	Jan.-Mar.-- 1995	Projected-- 1995	Projected-- 1996
	Quantity (*short tons*)						
Capacity	1,279,801	1,255,867	1,170,465	351,160	230,565	1,100,013	1,093,966
Production	1,105,919	1,145,688	1,039,974	323,369	214,704	1,006,478	1,002,519
End-of-period inventories	173,776	174,600	122,068	186,030	137,136	92,038	72,482
Shipments:							
Home market	12,187	10,203	17,982	1,925	3,309	17,822	17,757
Exports to--							
The United States	49,427	120,610	107,877	22,345	4,453	91,686	91,408
All other markets	1,055,502	1,014,051	966,647	287,669	191,874	927,000	912,910
Total exports	1,104,929	1,134,661	1,074,524	310,014	196,327	1,018,686	1,004,318
Total shipments	1,117,116	1,144,864	1,092,506	311,939	199,636	1,036,508	1,022,075
	Ratios and shares (*percent*)						
Capacity utilization	86.4	91.2	88.9	92.1	93.1	91.5	91.6
Inventories to production	15.7	15.2	11.7	14.4	16.0	9.1	7.2
Inventories to all shipments	15.6	15.3	11.2	14.9	17.2	8.9	7.1
Share of total quantity of shipments:							
Home market	1.1	.9	1.6	.6	1.7	1.7	1.7
Exports to--							
The United States	4.4	10.5	9.9	7.2	2.2	8.8	8.9
All other markets	94.5	88.6	88.5	92.2	96.1	89.4	89.3

Note.-- Ratios are calculated using data where both comparable numerator and denominator information were supplied. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to Commission questionnaires.

Table 17
OCTG: Korean (excluding Hyundai Pipe) capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

Table 18
OCTG: Mexican capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

Table 19
OCTG: Spanish capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

Japan

The industry producing OCTG in Japan consists of five companies, four of which (representing virtually all OCTG production in Japan) provided data to the Commission:[61] Kawasaki (a seamless and welded (seam annealed) casing, tubing, and standard- and heavy-weight drill pipe producer); NSC (a seamless and welded (seam annealed) casing, tubing, and standard-weight drill pipe producer); NKK (a seamless and welded (seam annealed) casing, tubing, and standard-weight drill pipe producer); and Sumitomo Metal (a seamless, welded (full-body normalized and seam annealed) casing and tubing producer). OCTG accounts for only a small portion of each company's total sales.[62] Each of these companies also produces other seamless and welded tubular products on the same equipment and machinery used to produce OCTG.[63] The Japanese mills reported that their principal OCTG export markets other than the United States are Asia (notably China), the former Soviet Union, the Middle East, Europe, Canada, South America, and Africa.

Korea

The industry producing OCTG in Korea currently consists of four companies: Dongbu (a producer of welded (seam annealed) tubing); Hyundai Pipe (a producer of welded (seam annealed) tubing); Pusan Steel (a producer of welded (full-body normalized and seam annealed) casing and tubing); and Union Steel (a producer of welded (seam annealed) tubing). ***. OCTG accounts for only a small portion of each company's total sales.[64] Each of these companies also produces other welded tubular products (primarily line pipe and standard pipe) on the same equipment and machinery used to produce OCTG. The Korean mills reported that their principal OCTG export markets other than the United States are China and Canada.

Mexico

The industry producing OCTG in Mexico consists of two companies: Tamsa (a producer of seamless casing, tubing, and standard-weight drill pipe) and Hylsa (a producer of welded (full-body normalized) tubing). In Tamsa's most recent fiscal year, OCTG accounted for *** percent of the company's total sales; the remainder was accounted for by sales of line pipe and standard pipe produced on the same equipment and machinery used to produce OCTG.[65] In Hylsa's most recent fiscal year, OCTG accounted for *** percent of the company's total sales. The company also produces line pipe, standard pipe, and conduit on the same equipment and machinery used to produce OCTG. Hylsa reported ***; Tamsa reported that its principal OCTG export markets other than the United States ***.

---

[61] The Commission received no information from the U.S. Embassy in Tokyo regarding the operations of Maruichi.

[62] Casing from Japan (4-1/2 - 11-3/4 inches O.D. inclusive) has been subject to a price undertaking with Canada since 1986.

[63] Capacity for the various Japanese producers fluctuated in part because of shifting product mix, both in terms of differing sizes of OCTG and in terms of varying production of OCTG and other tubular products on the same equipment. In addition, during the period for which data were collected, ***. Finally, ***.

[64] Casing from Korea (4-1/2 - 11-3/4 inches O.D. inclusive, grade J-55) has been subject to a price undertaking with Canada since 1986.

[65] Tamsa projected ***.

Spain

The industry producing OCTG in Spain currently consists of one company: Tubos Reunidos (a producer of seamless casing and tubing). In Tubos Reunidos' most recent fiscal year, OCTG accounted for *** percent of the company's total sales; much of the remainder was accounted for by sales of line pipe, mechanical tubes, boiler and furnace tubes, and hollows for cold-drawing produced on the same equipment and machinery used to produce OCTG.[66] Tubos Reunidos reported that its principal OCTG export markets other than the United States are ***.

CONSIDERATION OF THE CAUSAL RELATIONSHIP BETWEEN IMPORTS OF THE SUBJECT MERCHANDISE AND THE ALLEGED MATERIAL INJURY

U.S. Imports

U.S imports of OCTG are presented in table 20. Between January 1992 and March 1995, imports of OCTG entered the United States through 27 different customs districts. By far the most important of these districts, however, were Houston-Galveston, TX (accounting for 79.0 percent of all such imports); Anchorage, AK (11.3 percent); New Orleans, LA (4.0 percent); and Los Angeles, CA (2.8 percent).[67]

Cumulation Considerations

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: fungibility; presence of sales or offers to sell in the same geographical markets; common or similar channels of distribution; and simultaneous presence in the market.

Fungibility

Interchangeability

Questionnaire respondents were asked whether domestically produced OCTG products are interchangeable in use with similar imported products from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, and whether quality differences between domestic OCTG and imports have any effect on sales. In all cases the producers either stated that the domestic and imported OCTG products are interchangeable or said that they lacked the information to answer the question. No producer said that quality differences between their products and imports had any effect on sales. *** stated that the vast majority of its own products and competing imported products meet API standards.

---

[66] Tubos Reunidos reported ***.

[67] Data regarding imports by customs districts are based on Commerce's official statistics.

Table 20
OCTG: U.S. imports, by sources, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Source	1992	1993	1994	Jan.-Mar.-- 1994	1995
	Quantity (*short tons*)				
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	44,445	113,790	116,164	25,938	***
Korea (LTFV)	***	***	***	***	***
Mexico	1,415	39,094	39,986	7,961	8,337
Spain	***	***	***	***	***
Subtotal	***	***	***	***	***
Other sources	***	***	***	***	***
Total	101,649	339,285	333,472	78,441	47,485
	Value (*1,000 dollars*)				
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	48,095	97,520	97,782	20,666	***
Korea (LTFV)	***	***	***	***	***
Mexico	818	20,091	18,558	4,133	3,756
Spain	***	***	***	***	***
Subtotal	***	***	***	***	***
Other sources	***	***	***	***	***
Total	90,968	240,937	229,140	51,138	34,091
	Unit value (*per short ton*)				
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	$1,082.12	$857.02	$841.76	$796.75	***
Korea (LTFV)	***	***	***	***	***
Mexico	577.93	513.90	464.12	519.11	$450.56
Spain	***	***	***	***	***
Average	***	***	***	***	***
Other sources	***	***	***	***	***
Average	894.93	710.13	687.13	651.93	717.94

Continued on the following page.

Table 20 -- Continued
OCTG: U.S. imports, by sources, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Source	1992	1993	1994	Jan.-Mar.-1994	Jan.-Mar.-1995
	Share of total quantity (*percent*)				
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	43.7	33.5	34.8	33.1	***
Korea (LTFV)	***	***	***	***	***
Mexico	1.4	11.5	12.0	10.1	17.6
Spain	***	***	***	***	***
Subtotal	***	***	***	***	***
Other sources	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
	Share of total value (*percent*)				
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	52.9	40.5	42.7	40.4	***
Korea (LTFV)	***	***	***	***	***
Mexico	.9	8.3	8.1	8.1	11.0
Spain	***	***	***	***	***
Subtotal	***	***	***	***	***
Other sources	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

[1] Not applicable.

Note.--Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official statistics of Commerce.

In contrast to U.S. producers, responses by importers varied widely. In the majority of cases firms said that the OCTG items that they import are not interchangeable in use with similar products produced in the United States or with other imports. In fact, 17 of the 21 importers that responded to the question concerning interchangeability of imports said that the OCTG products from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain are not interchangeable with each other. *** argued that the quality of their products is generally superior to U.S.-produced OCTG and that they have lower reject rates. They also frequently argued that they offer niche products with special features and that the products are in size ranges that are not available from U.S. producers. *** also argued that they offer superior and/or specialized products that are often not available from U.S. producers. However, *** stated that the OCTG products that it imports from *** are inferior in quality to similar U.S.-produced products.

Overall, the majority of purchasers that compared OCTG from the United States, from Argentina, Austria, Italy, Japan, Korea, Spain, and Mexico, and from other countries in terms of similarity of end uses reported that products from these countries tend to be good or at least moderate substitutes for each other. However, imports from Austria, Korea, and Spain were cited fairly often as being poor substitutes in similarity of end uses for one or more countries. Questionnaire data and purchaser responses indicate that the product range available from these countries is more limited than from other import sources.

Specialty products

The Commission requested all parties to provide a detailed list of all niche or specialty products and collected data on every product in the form in which it was submitted.[68] The data collected by the Commission are summarized in public form below; confidential data appear in appendix F.

Completely unfinished seamless tubing products[69] represent a small portion of the overall tubing market. All commercial U.S. shipments of product within this category were shipments of imports, primarily from Spain and secondarily from countries not subject to investigation, with minor participation by imports from Argentina.

Most of the high-performance specialty products for which data were collected were produced either in Japan or in the United States. U.S. shipments of extremely high sour resistance casing or tubing[70] were primarily from Japan and secondarily from the United States, with some representation of product from Argentina and from countries not subject to investigation. U.S. shipments of high-yield-strength resistance casing or tubing[71] were dominated by product from the United States, with some representation of product from Japan. U.S. shipments of qualified high quality casing or tubing[72] were primarily from Japan in 1992 but thereafter were divided between

---

[68] The Commission alerted parties to its intention to gather such data at the close of its preliminary investigations. Views of the Commission, pp. 26-27, fn. 89.

[69] Seamless J-55 tubes (special chemistry), with carbon and alloy content necessary to make them upgradeable by quenching and tempering to API grades N-80, L-80, or P-110; and seamless N-80 tubes (special chemistry), with carbon and alloy content necessary to allow them to be normalized without quenching and tempering, with O.D.s of 2-3/8, 2-7/8, and 3-1/2 inches.

[70] Casing or tubing, regardless of the type of end finish and regardless of its wall thickness, having threshold stress of not less than 85 percent of its specified minimum yield strength under NACE TM-01-77 Method A or critical stress value of not less than 10 under Shell Type Bent-Beam Method.

[71] Casing or tubing, regardless of the type of end finish and regardless of its wall thickness, having a minimum yield strength of more than 125,000 psi.

[72] Casing or tubing, regardless of the type of end finish and regardless of its wall thickness, meeting certain specifications issued by Mobil or Shell.

product from Argentina, the United States, Japan, and countries not subject to investigation. U.S. shipments of heavy wall casing or tubing[73] fluctuated over the period for which data were collected, with heavy representation of Japanese product during the peak year of U.S. consumption and mixed participation by product from Japan, countries not subject to investigation, and the United States during other portions of the period for which data were collected.

U.S. shipments of unfinished drill pipe are primarily of product produced in the United States and secondarily of product produced in Argentina and Mexico. There are also U.S. shipments of unfinished drill pipe from Japan.[74] Japan is the only high-volume source of mill-finished drill pipe in the United States.[75]

Virtually all OCTG marketed in Alaska is produced in the United States or in Japan. U.S.-produced product constitutes the majority of both the critical service[76] and the noncritical service portions of the Alaskan market, while Japanese OCTG has a more noticeable presence in the critical service portion.

Seamless and welded OCTG

When asked whether seamless and welded OCTG products can be substituted for each other, 26 of 34 purchasers that responded to the question stated that they are substitutable, at least in some applications such as drilling in shallow wells. However, purchasers frequently qualified their response by stating that seamless OCTG are preferable to welded OCTG when the drilling is undertaken in high-pressure, corrosive, and hazardous environments. Purchasers frequently noted that welded OCTG has the advantage of being lower priced than seamless OCTG.

When asked whether seam-annealed and full-body normalized welded OCTG products are substitutable, 18 of 32 purchasers that responded to the question stated that they are substitutable in some applications. However, many of these purchasers stated that full-body normalized is preferable in highly corrosive environments. It was often noted that full-body normalized OCTG are more expensive than seam-annealed.

Sizes and grades

Table 21 compares 1994 U.S. shipments of OCTG (in short tons) produced in the United States and other countries in terms of size (small indicates product 4-1/2 inches in diameter or less, medium indicates product over 4-1/2 inches up to 10-3/4 inches in outside diameter, and large indicates product over 10-3/4 inches in outside diameter) and grade.

---

[73] Casing or tubing, regardless of the type of end finish, having a wall thickness of more than 1 inch and satisfying none of the specifications listed for qualified high quality casing or tubing.

[74] A large share of these shipments of unfinished drill pipe from Japan are of heavy-weight drill pipe (a seamless, heavy-walled tubular product generally made of carbon-grade steel, with an outside diameter of 4 inches or greater and a wall thickness of 1 inch or greater). The only other source of unfinished heavy-weight drill pipe in the U.S. market is product produced in the United States.

[75] There are no imports of finished heavy-weight drill pipe, nor do any U.S. mills sell finished heavy-weight drill pipe.

[76] Casing, tubing, or drill pipe which are required to meet any of the following "critical service" requirements: high collapse resistance (20 percent or more higher than API standards); low temperature impact resistance (high impact toughness that absorbs notch impact energy of 20 ft-lbs. at minimum and 25 ft-lbs. on average, for service at minus 50 degrees Fahrenheit); or premium joints (high gas seal and torque integrity).

Table 21
OCTG: U.S. shipments of domestic product and U.S. shipments of imports, by sources, sizes, and grades, 1994

* * * * * * *

Geographical Markets

OCTG produced in the United States is sold nationwide, although such sales are concentrated in the Gulf area, the Southwestern and Western states, the West Coast, and Alaska. The following tabulation, based on Commerce's official import statistics for the period January 1992 through March 1995, presents U.S. imports of OCTG, by country, according to the customs district in which they were entered (in percent):

Country	Anchorage	Houston	Los Angeles	New Orleans	Other
Argentina	0	98.1	1.9	0	0
Austria	0	100.0	0	0	0
Italy	0	99.7	0.1	(1)	0.2
Japan	29.7	54.4	5.7	8.9	1.3
Korea	0	99.4	0.4	0.2	(1)
Mexico	0	79.4	(1)	0.6	20.0[2]
Spain	0	99.8	0	0.1	0.1
Other	0.5	93.7	1.7	2.4	1.7

[1] Less than 0.05 percent of imports of OCTG entered through this customs district.
[2] Primarily Laredo, TX.

Marketing efforts are also discussed on a geographic basis in the section of this report entitled "Prices."

Channels of Distribution

Channels of distribution are discussed in the earlier section of this report entitled "Channels of Distribution."

Presence in the Market

OCTG produced in the United States was present throughout the period for which data were collected. The tabulation on the following page, based on Commerce's official import statistics, presents the number of months in each period for which entries of imports were recorded.

Market Shares

Market shares held by U.S. shipments of domestically-produced OCTG and imports of OCTG are presented in table 22. Market shares are calculated based on U.S. imports, rather than U.S. shipments of imports, in order to exclude the value of finishing operations performed in the United States on imported product.

Product/country[1]	1992	1993	1994	Jan.-Mar. 1995
Seamless casing:				
Argentina	9	11	10	0
Austria	0	0	2	0
Italy	1	4	7	0
Japan	12	12	12	3
Korea	0	1	0	0
Mexico	5	12	12	2
Spain	0	6	5	2
Welded casing:				
Austria	1	1	1	0
Italy	0	1	1	0
Japan	6	11	11	2
Korea	3	4	4	0
Mexico	0	0	4	0
Spain	2	0	0	0
Seamless tubing:				
Argentina	7	11	10	0
Austria	0	6	2	0
Italy	2	11	6	1
Japan	12	12	12	3
Korea	0	1	1	0
Mexico	0	0	6	0
Spain	9	8	8	7
Welded tubing:				
Italy	3	5	1	0
Japan	2	7	6	0
Korea	3	8	10	2
Mexico	0	0	9	3
Seamless drill pipe:				
Argentina	1	3	1	1
Italy	0	2	1	0
Japan	8	9	10	0
Mexico	0	2	5	2
All OCTG:				
Argentina	9	11	10	1
Austria	1	6	2	0
Italy	6	12	10	1
Japan	12	12	12	3
Korea	5	9	11	2
Mexico	5	12	12	3
Spain	11	10	7	2

[1] Entries of seamless casing and seamless tubing from Korea and welded casing from Austria are believed to reflect errors in reporting.

Table 22
OCTG: Apparent U.S. consumption and market penetration, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.-- 1994	1995
Consumption quantity (*short tons*) . . .	1,154,310	1,831,916	1,727,600	392,865	413,187
Consumption value (*1,000 dollars*) . . .	706,800	1,125,119	1,067,766	239,180	265,451
	Share of the quantity of U.S. consumption (*percent*)				
Producers' U.S. shipments	91.2	81.5	80.7	80.0	88.5
U.S. imports from--					
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	3.9	6.2	6.7	6.6	***
Korea (LTFV)	***	***	***	***	***
Mexico	.1	2.1	2.3	2.0	2.0
Spain	***	***	***	***	***
Subtotal	***	***	***	***	***
Other sources	***	***	***	***	***
Total	8.8	18.5	19.3	20.0	11.5
	Share of the value of U.S. consumption (*percent*)				
Producers' U.S. shipments	87.1	78.6	78.5	78.6	87.2
U.S. imports from--					
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	6.8	8.7	9.2	8.6	***
Korea (LTFV)	***	***	***	***	***
Mexico	.1	1.8	1.7	1.7	1.4
Spain	***	***	***	***	***
Subtotal	***	***	***	***	***
Other sources	***	***	***	***	***
Total	12.9	21.4	21.5	21.4	12.8

[1] Positive figure, but less than significant digits displayed.

Note.--Because of rounding, figures may not add to the totals shown; shares are computed from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official statistics of Commerce.

Prices

Market Characteristics

The lack of close substitutes for OCTG in some applications suggests that the demand for OCTG tends to be relatively unresponsive to small changes in price. Although other products, such as line pipe and refurbished OCTG, can sometimes be used as substitutes, most questionnaire responses indicate that changes in the price of OCTG would not cause purchasers to increase greatly or reduce sharply purchases of these substitute products. Additionally, the majority of purchasers reported that the cost of OCTG as a share of the total cost of an oil or natural gas rig is generally in the 15 to 35 percent range. One purchaser reported that the cost can run as high as 60 percent for deep offshore rigs.

Although OCTG is sold on either a spot or contract basis by producers and importers, questionnaire responses indicate that the majority of sales are on a spot basis. Among important producers, spot sales range from a low of *** percent of the total for *** to a high of *** percent for ***. All imports from *** are sold on a spot basis and over 90 percent of all imports from *** are sold on a spot basis. *** percent of the imports from *** are sold on a spot basis, and the majority of sales of Japanese imports are on a spot basis.[77] The terms and conditions of those sales made on a contract basis vary widely. Contract durations of 3 to 6 months or a year are most typical within this industry for both U.S. producers and importers, with prices and quantities frequently fixed during the contract period. In some cases meet-or-release provisions apply.

Arrangements known as "stocking programs" for OCTG involving end users (such as oil and gas companies), distributors, and producers or importers, are common in the industry. Under these arrangements, a distributor agrees to maintain inventories of particular categories of OCTG for use by an oil or gas company at a fixed price for a specified time period. As a result, the oil or gas company is relieved of the need to maintain an inventory, and the distributor is guaranteed a stable price and an assured market. While the OCTG producer or importer is not a direct party to the agreement between the distributor and the end user, it generally has an understanding with the distributor to supply it with the OCTG products in the amounts and at the prices required to meet the requirements of the stocking program while guaranteeing an adequate distributor mark-up.[78] None of the producers or importers that have taken part in these programs reported that the programs have had much effect on market prices. In fact, three producers stated that price effects have been small. The two largest U.S. producers, *** and ***, both reported that stocking programs ***.

In order to sell OCTG, U.S. producers and importers generally have to meet various qualification requirements imposed by oil and gas companies. These requirements vary widely. In some cases API certification may be sufficient. In other cases, a potential new supplier may be required to complete an extensive questionnaire detailing its production process and its inspection and quality assurance procedures. The oil company may then require test samples, an on-site visit and inspection of the mill, a review of the technology involved, and test usage of the product before purchasing OCTG. In some circumstances, standard metallurgical evaluations of hardness may be required in addition to the other requirements.[79] The final approval may restrict the types of OCTG

---

[77] ***, the importer of *** OCTG, considers its sales to be short-term contractual agreements. It considers this contractual agreement to be in effect from the period of order placement to delivery and collection of payment.

[78] Although stocking programs that directly involve distributors are the most common arrangements, in some cases stocking programs involve only end users and U.S. producers or importers. For example, ***.

[79] Telephone interview with *** of ***, Houston, TX, Apr. 17, 1995.

and steel grades acceptable for a particular manufacturer. The qualification process may take as little as a few days to over 2 years. A period of several months is common.

Questionnaire responses indicate that prices of OCTG may be quoted on either an f.o.b. or delivered basis, but f.o.b. quotations are more common. In the case of domestic producers, prices are frequently quoted on an f.o.b. plant or f.o.b. warehouse basis, while importers commonly quote f.o.b. warehouse or ex-dock, duty paid.

List prices are not generally used as a basis for sales of OCTG. Among U.S. producers, only Bellville, Maverick, and U.S. Steel, reported that they publish price lists. USS/KOBE, a subsidiary of USX and Kobe Steel Limited reported that list prices for its products are published by USX. *** stated that they ***, while *** uses the price lists as a basis for transactions, but offers discounts when necessary to meet competition. No importer publishes a price list.

Prices at the distributor level are commonly determined through informal negotiations between distributors and established suppliers.[80] Purchaser questionnaires indicate that the majority of distributors contact at least three suppliers before making a purchase. In some cases 5, 10, or even 20 suppliers are contacted. Distributors reported that prices of OCTG change frequently, sometimes on a daily or weekly basis.[81]

Producers reported in their questionnaires that they consider price to be a more important factor in purchases of OCTG than importers. In the questionnaires, producers and importers were asked whether non-price factors influence purchasing decisions for OCTG "greatly," "somewhat," "a little," or "not at all." Of the 13 producers that responded to this question, 7 answered "a little," and 5 answered "somewhat," but only 1 answered "greatly." In contrast, 14 of the 23 importers that responded to this question answered "greatly," 5 answered "somewhat," 3 answered "a little," and 1 answered "not at all."

The majority of distributors that completed purchaser questionnaires regard price as the most important consideration in buying OCTG. When asked to list the three most important factors in choosing a supplier for a particular order, 18 of 33 distributors ranked price in first place. Seven purchasers placed quality in first place and 3 ranked availability first. First-place rankings were also given to product range, product line, prearranged contracts, and relationship with particular mills. Quality was ranked second in importance by 9 of the distributors, price was ranked second by 8 and availability was ranked second by 7 of these purchasers. Other second place factors listed included customer preferences and traditional supplier.

Inland shipments of OCTG are commonly made by either truck or rail. Domestic producers tend to ship the products longer distances than the importers. The majority of domestically produced OCTG is transported distances of over 100 miles, and a significant percentage of these shipments exceed 500 miles. In contrast, importers tend to ship distances of 100 miles or less. In fact, 6 of the 15 importers that reported distances shipped stated that all of their shipments were within the 100 mile range, and 5 others reported that 75 to 98 percent of their shipments were under 100 miles.

Inland transportation costs generally account for a relatively small share of the total cost to purchasers of OCTG. U.S. producers and importers were asked to estimate the share of the delivered price of OCTG accounted for by these shipping costs. The estimates by individual U.S. producers tended to be somewhat higher than estimates for importers since producers tend to ship longer distances on average. The majority of producers' estimates ranged from 3 to 8 percent of the delivered price while the majority of importers' estimates ranged from 1 to 5 percent. However, one

---

[80] The majority of distributors reported that they don't often change their approved list of suppliers.

[81] A large share of distributor purchasers consider North Star to be an industry price leader. When asked to name a price leader or leaders, 19 of 33 responding distributors mentioned North Star. In selecting North Star, purchasers frequently cited its low prices, aggressive marketing, and ability to capture increased market share. U.S. Steel was also cited by 8 of 33 purchasers as a price leader, but none of the other large domestic or import suppliers are commonly viewed as price leaders.

importer and one producer each estimated costs as high as 10 percent and two importers estimated costs of 15 percent.

Although OCTG are sold throughout the United States, sales tend to be concentrated in areas where drilling is most common, such as the Gulf area, the southwestern and western states, the West Coast, and Alaska. Seven U.S. producers, ***, reported that they sell in all or most areas of the United States. ***, an importer of OCTG from Italy and Mexico, also reported that it markets its products throughout the United States. Imports from Japan are sold in Alaska, the West Coast, and the West, Southwest, and Gulf regions, and imports from Argentina are sold in the West, Mid-continent, and Gulf regions. Imports from Korea and Spain are sold in the Southwest and Gulf regions, and imports from Austria are marketed exclusively in Houston, TX.

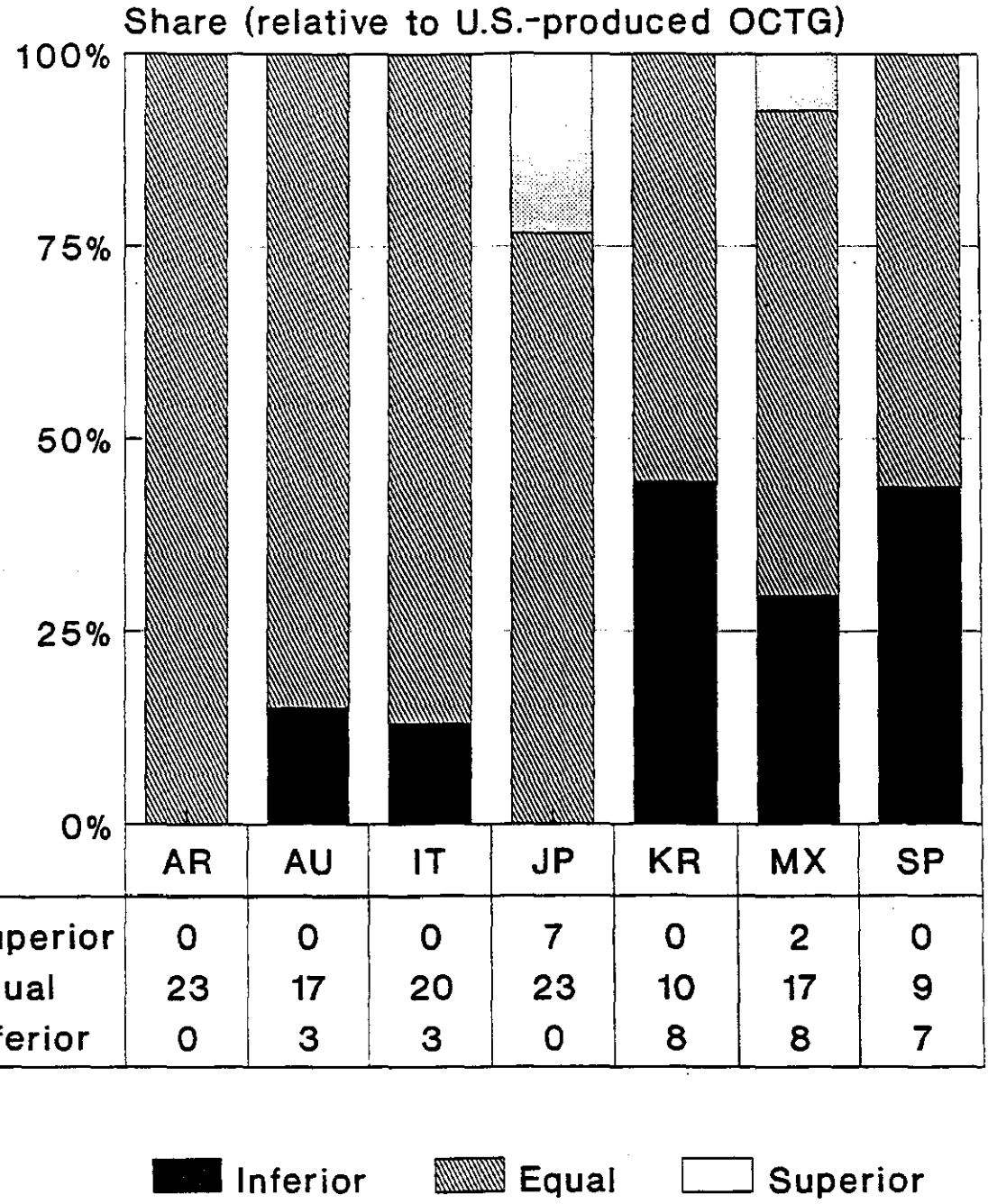
Reported lead times for delivery of OCTG varied widely. For domestic producers, estimated lead times ranged from 2 days to 3 months. For importers, the lead time is relatively short if the sale involves OCTG products maintained in inventories in the United States, but is much longer if ordered from a foreign manufacturer. Lead times for products maintained in U.S. inventories ranged from 1 day to 1 week. When ordered from foreign manufacturers the lead time ranged from 3 to 3-1/2 months for Argentina, 1-1/2 to 5 months for Mexico, 3 to 5 months for Austria and Spain, 2 to 6 months for Italy and Korea, and 4 to 8 months for Japan. Over *** percent of all sales of imported OCTG from Argentina are made from inventories maintained in the United States. The majority of sales of OCTG from Mexico also come from U.S. inventories. However, *** of all sales of imports from Italy, Korea, and Japan are made from U.S. inventories, and *** sales of imports from Austria and Spain come from inventories in the United States.

Product Comparisons

Producers and importers were asked to discuss differences between domestic and imported OCTG that would help to explain differences in prices and in purchasing patterns. Product characteristics were discussed along with marketing characteristics in the questionnaire responses.

In the purchaser's questionnaires, distributors and various end users, including oil companies, were asked to compare the quality of U.S.-produced OCTG with imported OCTG from each of the seven cited countries. Forty-one purchasers, including 33 distributors and 8 end users, responded to this question. The results are presented graphically in figure 3. Questionnaire respondents were asked whether the imports from each country were inferior, comparable, or superior in quality to U.S.-produced OCTG. In most cases responses were not provided for all seven countries since the majority of buyers were not familiar with imports from all of the sources. Although responses varied by countries, the majority of purchasers ranked imports from each of the seven countries as being at least comparable in quality to U.S-produced OCTG. Japanese-produced OCTG ranked higher in relation to U.S.-produced OCTG than the other supplying countries. Seven of 30 purchasers ranked the Japanese product superior to the U.S-produced product and 23 ranked it comparable. In the case of Argentina, all 23 respondents ranked Argentine imports as comparable with the U.S.-produced OCTG. For Italy, 20 rated the imported product equal in quality to domestic OCTG and 3 ranked it inferior. Austria received 17 comparable rankings and 3 inferior rankings. Imports from Mexico, Spain, and Korea were ranked inferior to U.S.-produced OCTG more often than imports from the other countries. Eight purchasers rated imports from Mexico inferior to the U.S. product, 17 rated them comparable, and 2 rated them superior. Eight purchasers ranked the Korean product inferior to domestic OCTG and 10 ranked it comparable. Spain received 7 inferior ratings and 9 comparable ratings.

Figure 3
Quality comparisons by purchasers of U.S.-produced OCTG with imported OCTG from Argentina, Austria, Italy, Japan, Korea, Mexico and Spain



	AR	AU	IT	JP	KR	MX	SP
Superior	0	0	0	7	0	2	0
Equal	23	17	20	23	10	17	9
Inferior	0	3	3	0	8	8	7

Source: Compiled from data submitted in response to Commission questionnaires.

Although quality is an important factor in purchases of OCTG, the majority of purchasers that completed questionnaires are willing to buy from most supply sources. When asked whether there are any countries (including the United States) from which they would not buy OCTG because of inferior quality or other reasons, the purchasers that answered "yes" to this question commonly cited Eastern European or third-world nations. In some cases, the unwillingness to buy was due to a lack of experience or market acceptance rather than bad experience with quality. In addition to these supply sources, one purchaser mentioned ***, one mentioned ***, and one mentioned ***.

Questionnaire Price Data

U.S. producers, importers, and purchasers were asked to provide price data on 19 commonly marketed OCTG items. These categories were selected after extensive discussions with representatives of the petitioners and respondents. For the 19 products, producers and importers were asked to provide prices on their largest sales in each quarter and total quantities and total values shipped in all quarters during January 1992-March 1995. Purchasers were asked to report prices on their largest quarterly purchases during January 1993-March 1995 and total quantities and values purchased for each quarter. The product categories were:

Product 1: **TUBING**, Grade J-55, 2-3/8 inches O.D., 4.70 lbs./ft., external upset ends, threaded and coupled, range 2.
{a} Welded (full body normalized)
{b} Welded (seam annealed)

Product 2: **TUBING**, Grade J-55, 2-7/8 inches O.D., 6.16 lbs./ft., special chemistry green tubes, completely unfinished, with carbon and alloy content necessary to make it upgradeable by quenching and tempering to API grades N-80, L-80, or P-110, range 2.
{a} Seamless

Product 3: **TUBING**, Grade J-55, 2-7/8 inches O.D., 6.50 lbs./ft., API 8 round, threaded and coupled, range 2.
{a} Welded (full body normalized)
{b} Welded (seam annealed)

Product 4: **TUBING**, Grade N-80, 2-7/8 inches O.D., 6.50 lbs./ft., external upset ends, threaded and coupled.
{a} Seamless

Product 5: **CASING**, Grade N-80, 4-1/2 inches O.D., 11.60 lbs./ft., long threaded and coupled, range 3.
{a} Seamless
{b} Welded

Product 6: **CASING**, Grade N-80, 5-1/2 inches O.D., 17.00 lbs./ft., long threaded and coupled, range 3.
{a} Seamless
{b} Welded

Product 7: **CASING**, Grade N-80, 7 inches O.D., 23.00 lbs./ft., long threaded and coupled, range 3.
{a} Seamless
{b} Welded

Product 8: **CASING**, Grade J-55, 9-5/8 inches O.D., 36.00 lbs./ft., short threaded and coupled, range 3.
{a} Welded

Product 9: **CASING**, Grade K-55, 9-5/8 inches O.D., 36.00 lbs./ft., short threaded and coupled, range 3.
{a} Seamless

Product 10: **CASING**, Grade P-110, 9-5/8 inches O.D., 53.50 lbs./ft., long threaded and coupled, range 3.
{a} Seamless

Product 11: **CASING**, Grade N-80, 13-3/8 inches O.D., 68.00 lbs./ft., buttress threaded and coupled, range 3.
{a} Seamless
{b} Welded

Product 12: **DRILL PIPE**, Green tubes, 5 inches O.D., 0.362 inches wall thickness, and 17.93 lbs./ft.
{a} Seamless

Product 13: **DRILL PIPE**, (Heavy-weight), unfinished, 5-1/2 inches O.D., 3.031 inches I.D. (max), 26.5 ft.
{a} Seamless

Ten U.S. producers, 17 importers, and 14 purchasers provided varying amounts of usable price information. Domestic prices were provided for all product categories except product 2.[82] The 18 products on which U.S. prices were provided accounted for about 12 percent of total U.S. shipments of OCTG in 1994.[83] Import prices were available for all products except product 8 and product 11b. The mix of products on which prices were reported varied greatly by country, as shown in the following tabulation.[84]

Argentina . .	2, 4, 5a, 6a, 7a, 10, 12,
Austria . . .	4, 5a, 6a
Italy	1a, 3a, 7a, 10, 11a
Japan	1a, 3a, 4, 5a, 6a, 9, 10, 11a, 13
Korea	1a, 1b, 3a, 3b, 5b, 6b, 7b
Mexico . . .	1a, 3a, 6a, 7a, 10, 11a, 12
Spain	2, 4

[82] ***.

[83] ***.

[84] At least some price comparisons were possible for all of the products and categories shown except product 2 from Argentina and Spain.

The products where prices were reported accounted for 11 percent of total imports from Argentina in 1994, 40 percent from Austria, 20 percent from Italy, 5 percent from Japan, 47 percent from Korea, 16 percent from Mexico, and 17 percent from Spain.[85]

Price trends

Quarterly prices of all products where one or more U.S. producers and at least one importing country provided data are shown in tables 23 through 38 for the period January 1992 through March 1995.[86] No prices are shown for product 2, since no U.S. sales of this product were reported, and no prices are shown for products 8 or 11b, since there were no reported sales of these products from any of the 7 countries.[87] The U.S. price of product 4 ***. The domestic prices of the other products tended to fluctuate with no evident trend during the period.[88] However, U.S. prices in the first quarter of 1992 were higher than in the first quarter of 1995 for products ***.[89] In addition, the U.S. price of product *** was higher in April-June 1992 than in January-March 1995, the last quarter in which U.S. data for this product were available.

In the case of imports, clear-cut trends were not evident in the majority of cases, although the results varied by country and by product. For some products, very little quarterly import data were available. For Argentina, the price of ***. However, ***. In the case of product ***, only *** quarters of data were available. For Austria, prices of products *** during the periods where data were reported. However, price data ***. For Italy, the price of ***. Italian price data for products ***. For Japan, the price of *** in periods where data were available. However, ***. In the case of products ***, very little Japanese price data were available.[90] *** for any of the 5 Korean products where prices were reported.[91] Data were *** complete for product *** and were largely complete for product ***, but were available in only a few quarters for the other product categories. For Mexico, price data ***. In the case of Spain, prices of ***. The only other price data relating to Spain was ***.

---

[85] A large part of the Korean price data consisted of ***.

[86] The majority of domestic prices and some import prices from Italy and Japan are weighted averages. Import prices from other sources represent transactions by individual importers. All of the data shown in the tables are for prices reported on an f.o.b. basis. The petitioners have stated that, for purposes of price comparisons between U.S.-produced and imported OCTG, delivered price data are preferable. They argue that in some cases they are required to ship OCTG long overland distances to Houston, TX, where a large share of their distributor customers are located, while importers bring their products directly to customers in Houston with virtually no shipping charges. In the producer and importer questionnaires, respondents were asked to report both the f.o.b. and delivered prices for each transaction. However, very little delivered price information was available. Among the domestic producers that provided price data, only *** were able to provide both f.o.b. and delivered prices for all of their product categories. Some delivered price data was also provided by *** and ***, but no delivered prices were provided by ***. Some drill pipe data from Japan were available on a delivered basis, but all prices for other categories were reported on an f.o.b. basis. ***, the importer of OCTG from ***, also reported delivered prices. A discussion of the effects of delivery costs on price comparisons is provided in the next section.

[87] All of the *** price data shown for products 1a and 3a and some of the *** prices shown for products 7a and 10 are for sales of OCTG that were imported in unfinished form and then processed into finished products before being sold by the importers. In some cases this added substantially to the value of the product.

[88] Similarly, no consistent trends were evident in the domestic prices reported by purchasers during Jan.-Mar. 1993 through Jan.-Mar. 1995. Most product prices fluctuated from quarter to quarter.

[89] ***.

[90] ***.

[91] Similarly, ***.

Table 23
Product 1a: F.o.b. prices reported by U.S. producers and importers of OCTG from Italy, Japan, Korea, and Mexico, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 24
Product 1b: F.o.b. prices reported by U.S. producers and importers of OCTG from Korea, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 25
Product 3a: F.o.b prices reported by U.S. producers and importers of OCTG from Italy, Japan, Korea, and Mexico, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 26
Product 3b: F.o.b. prices reported by U.S. producers and importers of OCTG from Korea, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 27
Product 4: F.o.b. prices reported by U.S. producers and importers of OCTG from Argentina, Austria, Japan, and Spain, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 28
Product 5a: F.o.b. prices reported by U.S. producers and importers of OCTG from Argentina, Austria, and Japan, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 29
Product 5b: F.o.b. prices reported by U.S. producers and importers of OCTG from Korea, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 30
Product 6a: F.o.b. prices reported by U.S. producers and importers of OCTG from Argentina, Austria, Japan, and Mexico, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 31
Product 6b: F.o.b. prices reported by U.S. producers and importers of OCTG from Korea, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 32
Product 7a: F.o.b. prices reported by U.S. producers and importers of OCTG from Argentina, Italy, and Mexico, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 33
Product 7b: F.o.b. prices reported by U.S. producers and importers of OCTG from Korea by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 34
Product 9: F.o.b. prices reported by U.S. producers and importers of OCTG from Japan, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 35
Product 10: F.o.b. prices reported by U.S. producers and importers of OCTG from Argentina, Italy, Japan, and Mexico, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 36
Product 11a: F.o.b. prices reported by U.S. producers and importers of OCTG from Italy, Japan, and Mexico, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 37
Product 12: F.o.b. prices reported by U.S. producers and importers of OCTG from Argentina and Mexico, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 38
Product 13: F.o.b. prices reported by U.S. producers and importers of OCTG from Japan, by quarters, Jan. 1992-Mar. 1995

Price comparisons

Margins of underselling and overselling by product and by country are presented in tables 39-46.[92] The data show that prices of imports from Argentina were lower than domestic prices in 9 out of 49 quarters where comparisons could be made and higher in the other 40 quarters. For Austria, imports were lower in 7 out of 16 quarters where comparisons were possible and higher in the other 9 quarters.[93] For Italy, prices were lower in 14 quarters and higher in 9 quarters, and for Japan, prices were lower in 19 quarters and higher in 24 quarters. Prices of Korean imports of OCTG were lower in 16 quarters, equal to the U.S. price in 1 quarter, and higher in 25 quarters, while prices of Mexican imports were lower in 15 quarters and higher in 11 quarters. The price of product 4 from Spain was ***.

Table 39
Margins of underselling (overselling) for products 1a and 1b, by countries and by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 40
Margins of underselling (overselling) for products 3a and 3b, by countries and by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 41
Margins of underselling (overselling) for product 4, by countries and by quarters, Jan. 1992-Mar. 1995

* * * * * * *

---

[92] The comparisons shown in the tables are all on an f.o.b. price basis since much of the producer price data and practically all of the import price data are only available in this form. However, domestic prices reported by U.S. producers for products 5a, 7a, 10 and 12 were provided on both an f.o.b. and a delivered basis. Quarterly f.o.b. price comparisons for all four of these products resulted in a combined total of 14 instances of underselling and 51 instances of overselling as determined from the data shown in table 42 and tables 44-46. When comparing U.S. producers' delivered prices for these categories with importers' f.o.b. prices, importer underselling increased slightly, but imports were still higher in the majority of the comparisons. The import prices were lower in 22 of the comparisons and higher in the other 43 comparisons. Some additional price comparisons were made for products 5b, 6b, and 7b combining a mixed weighted average of U.S. f.o.b. prices with delivered U.S. prices for the company that was able to provide price data on this basis. ***.

[93] In their prehearing and posthearing briefs, Counsel for Voest-Alpine argued that the costs of third party inspections valued at between $45 and $62 per ton are included in the prices of North Star, U.S. Steel, and other suppliers. In the questionnaires producers were asked to discuss free "extras" such as third party inspections if applicable in the space provided below the price data. However, questionnaire responses indicated ***.

Table 42
Margins of underselling (overselling) for products 5a and 5b, by countries and by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 43
Margins of underselling (overselling) for products 6a and 6b, by countries and by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 44
Margins of underselling (overselling) for products 7a and 7b, by countries and by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 45
Margins of underselling (overselling) for products 9 and 10, by countries and by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 46
Margins of underselling (overselling) for products 11a, 12, and 13, by countries and by quarters, Jan. 1992-Mar. 1995

* * * * * * *

In addition to the price comparisons from producer and importer questionnaires, some additional comparisons were possible from price data reported in purchaser questionnaires relating to Argentina and Austria. Four direct comparisons for product *** from the United States and Argentina were available from ***. *** purchased this product from both ***, a U.S. producer, and from ***, in the first and second quarters of 1993 and the third and fourth quarters of 1994. The U.S. price was *** per ton in the first quarter of 1993, *** in the second quarter of 1993, *** in the third quarter of 1994, and *** in the fourth quarter of 1994. The price of imports from *** was ***. The *** price was *** per ton in the first and second quarters of 1993 and the third quarter of 1994, and *** in the fourth quarter of 1994. U.S. shipments on these transactions ranged from *** to *** tons and *** shipments ranged from *** tons to *** tons. An additional price comparison for product *** was available from ***. *** reported that it purchased *** tons of product *** from *** at *** per ton and *** tons of imported OCTG from *** at *** per ton in the first quarter of 1994.

Direct price comparisons for imports from *** were also available for products ***. *** purchased *** tons of product *** from *** and *** tons from *** in the fourth quarter of 1994. The *** price was *** per ton and the *** price was *** per ton. Another purchaser, *** purchased product *** from both *** and *** in the third quarter of 1993 and in the four quarters from April-June 1994 through January-March 1995. The *** price was ***. The *** price was *** per ton in the third quarter of 1993 and *** and *** in the second, third, and fourth quarters of 1994 and the first quarter of 1995. The *** was *** per ton in the third quarter of 1993 and ***

and ***, respectively, in the last three quarters of 1994 and the first quarter of 1995. Quarterly purchases from *** ranged in volume from *** tons to *** tons, and quarterly purchases from *** ranged from *** tons to *** tons.

One direct price comparison was available for imported OCTG from ***. *** reported that in the third quarter of 1993 it bought *** tons of product *** from *** at a price of *** per ton and *** tons of ***-produced imports of this product from *** at a price of *** per ton.

Exchange Rates

Nominal and real exchange rate data for Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain are presented in figure 4. The graphs show that the nominal and real exchange rates of the Japanese currency appreciated significantly in relation to the dollar during the period shown, while the currency of Argentina remained relatively stable during the period and the Austrian currency fluctuated.[94] The currencies of Italy, Korea, and Spain depreciated overall in relation to the dollar during the periods shown, though the Korean currency has recovered greatly since early 1994. The Mexican peso depreciated moderately in nominal terms during 1992-94, while appreciating moderately in real terms during much of this period. However it fell sharply in both nominal and real terms in the first quarter of 1995.

Lost Sales and Lost Revenues

In the preliminary and final investigations six U.S. producers, Bellville, Koppel, Lone Star, Maverick, North Star, and U.S. Steel, provided a total of over 100 lost sales allegations involving more than 50,000 tons of OCTG valued at over $40 million and more than 70 allegations of lost revenues involving over 70,000 tons of OCTG valued at more than $7 million due to competition from imports. The Commission contacted purchasers to investigate the allegations.

*** on sales of *** short tons of OCTG in *** to ***, a distributor, due to competition from imports from *** and that ***. *** also provided a total of ***. All of the *** concerned imports from ***. *** could not specifically address each allegation. However, he stated that the *** allegations were not valid. He argued that any downward pressure on prices exerted by imports would have occurred early in *** rather than in ***. *** said that his company buys *** percent of its OCTG products from U.S. producers and purchases the remainder from importers. *** believes that U.S. producer prices have been low because of their entry into long-term contracts with major oil companies 2 or 3 years ago. He also said that U.S. producer prices tend to be lower than prices of imports from Argentina and Japan, but higher than prices of imports from Korea. However, he believes that the Korean prices are lower because the quality is inferior to U.S. OCTG products.

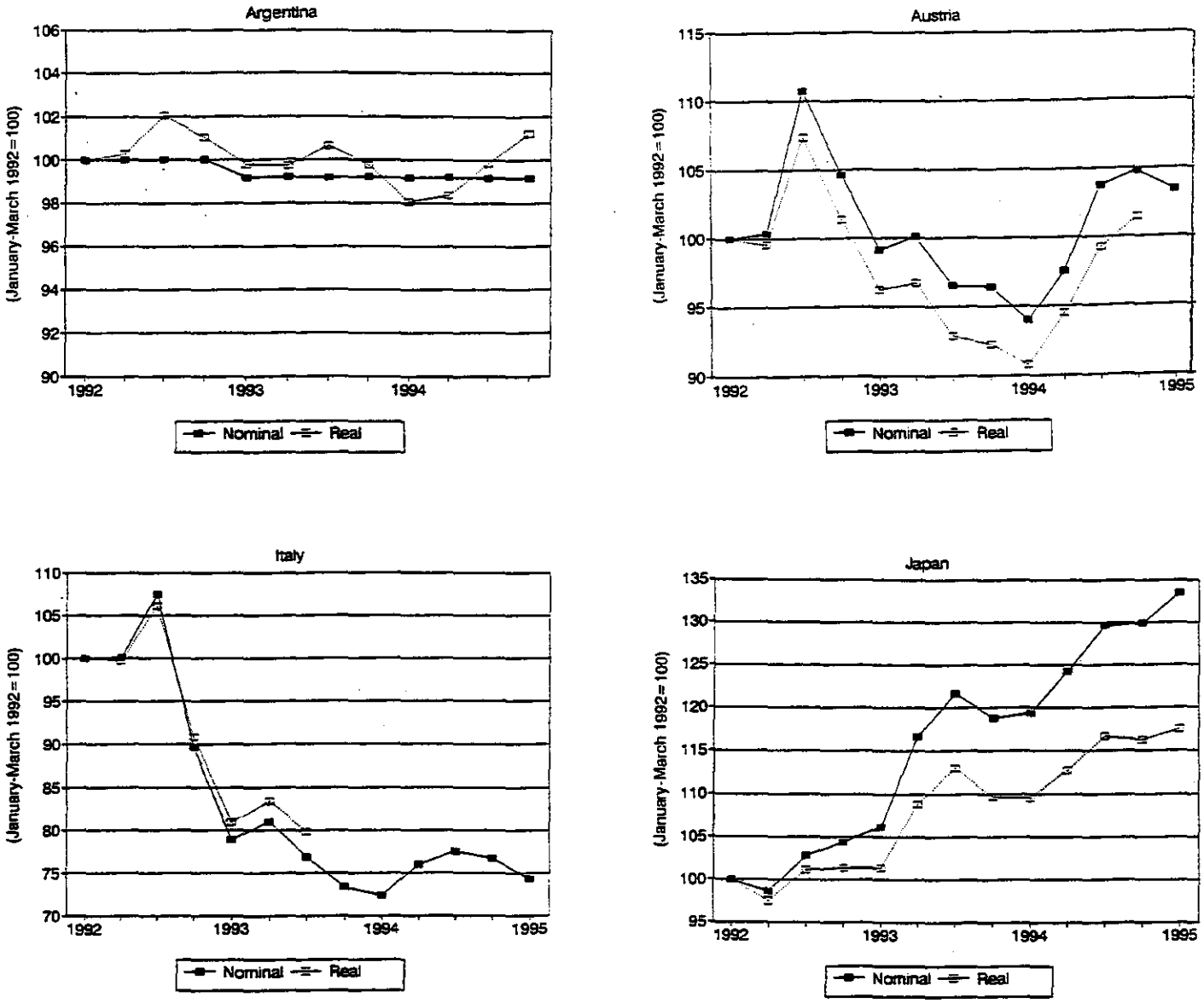
***. *** was able to recall some of the transactions. He believed that the *** could easily have been valid, since imports from *** were highly price competitive in his opinion during ***.[95] He also believed that the *** allegations relating to *** were probably valid, since prices of imports from *** for the specified products were extremely low in ***. However, he said that the *** allegations relating to *** were not valid. He said that his company has never purchased any OCTG from *** in the specified size ranges. *** could not recall the transactions relating to ***.

---

[94] Real exchange rates are calculated by adjusting the nominal rates for movements in producer prices in the United States and the other countries.

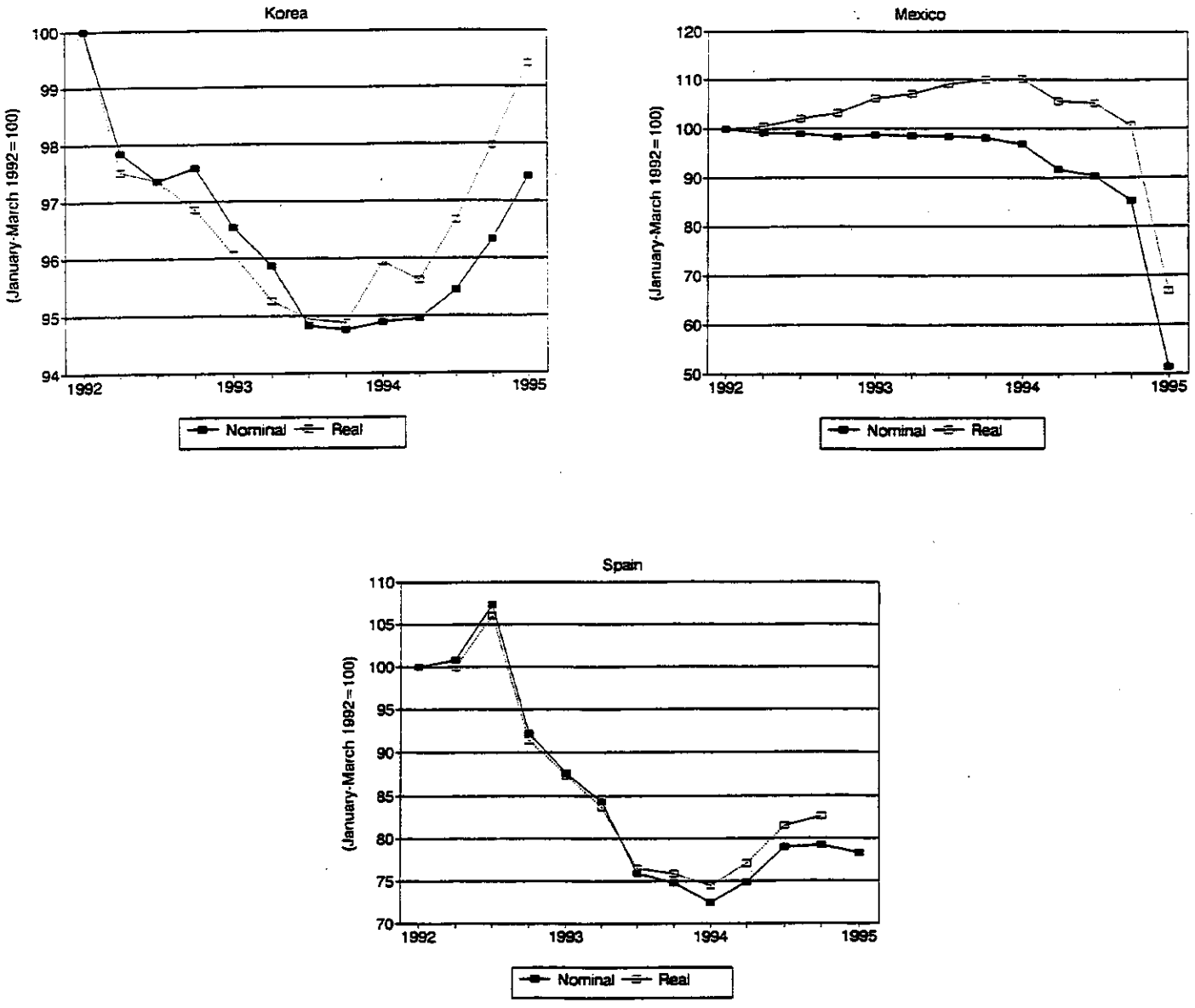
[95] However, he also stated that North Star has generally been the price leader.

Figure 4
Indexes of nominal and real exchange rates of the currencies of Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain in relation to the U.S. dollar, by quarters, Jan. 1992-Mar. 1995



Continued on next page.

Figure 4—continued
Indexes of nominal and real exchange rates of the currencies of Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain in relation to the U.S. dollar, by quarters, Jan. 1992-Mar. 1995



Source: International Monetary Fund, *International Financial Statistics*, June 1995.

***. *** stated that the allegations relating to *** were valid. He said that imports from *** were highly price competitive in the periods cited. He said that his company bought the *** product in *** at a price that was lower than the U.S. price, and that it used *** quotes to bid down the price of the U.S. product in ***. He also said that he made use of low quotes in the market for ***-produced OCTG in *** to bid down the price of the U.S.-produced product. However, *** has never actually purchased OCTG from ***. *** has purchased imported OCTG from ***, but he could not remember the transaction in ***.

***. *** is a distributor for ***. *** alleged that *** due to competition from other distributors selling imports from ***. *** also alleged that *** as a result of a competitor selling ***-produced OCTG. *** stated that the allegations could easily be valid, although he does not recall the details of the transactions. However, he also said that he frequently wins in competitive bids against suppliers of these imports when marketing ***'s products. *** buys about *** percent of its OCTG from ***. Although *** buys mainly from one company, he considers OCTG to be largely a commodity product that can be bought from a variety of sources. He considers the OCTG imported from Argentina, Austria, Japan, and Mexico to be price competitive with the products produced in the United States.

***. *** could not precisely date the transactions, but he believed that all of the allegations could easily be valid. He said that he had been forced to lower prices or had lost sales when attempting to market *** products because of large supplies of low-priced Italian imports of these products, produced by ***, that were available in the U.S. market during the periods specified. However, he said that with the exception of the large supply of imports from ***, ***'s prices on its casing products are generally lower than prices of these products from any other import source. He did say that imports of casing from Austria and Italy have at times been lower than domestic prices. He also believed that his company ***. He said that the *** products that he markets, which consist mainly of tubing, are not price-competitive, in most cases, with imports from Japan, Argentina or Spain.

***. *** did not have the information relating to the transaction immediately available, but he doubted that the allegation was valid. *** buys approximately 99 percent of its OCTG from domestic producers. The small amount of imports that it buys comes mainly from ***. The imports are purchased from other distributors rather than directly from importers. *** was reasonably sure that *** has never purchased any *** OCTG. He also felt that the alleged cost of *** was unrealistically low for a purchase of this size.

***. *** could not recall the transaction. He did say that prices of *** imports were very low during that period, but he was not able to elaborate further.

***. *** alleged that *** due to competition from another distributor marketing imports from ***. *** could not recall the *** transaction. ***. *** also purchases imported OCTG from Argentina and Mexico because they offer some size ranges for OCTG that are not available from ***.

*** alleged that it *** of *** on combined total sales of *** tons of OCTG in *** as a result of competition from imports from *** and that it ***, also as a result of competition from *** imports. In addition, *** alleged that it *** amounting to *** on combined sales of *** tons of OCTG in *** due to competition from ***, and that it *** of *** tons valued at *** in *** due to competition from imports from ***. *** was not willing to discuss the lost sales allegations in detail. However, he did provide information relating to the market for OCTG. He believes that the imports from Korea are priced lower than domestically produced OCTG, and that the Korean presence in the market exerted downward pressure on prices during 1993 and 1994. He also considers imported OCTG from Mexico and Argentina to be competitive with the domestic product, but considers imports from Japan to be higher priced than U.S.-produced OCTG. In ***'s opinion, domestically-produced seamless tubing is competitive with imports from any source. *** stated that his company has had to turn to imports because U.S. producers have been unwilling to supply all of

the OCTG that *** needs. He said that U.S. producers give preferential treatment to certain, favored distributors.

***. *** could not specifically address the allegation. However, *** did remember purchasing significant quantities of this product from ***. In fact, ***'s purchaser questionnaire indicates that the company bought *** tons of the product from *** in ***, and *** tons in the second quarter of that year. The questionnaire also shows that *** did not purchase *** until ***.

***. *** is a distributor for ***. *** alleged that *** due to competition from a distributor selling *** OCTG and that it *** due to competition from a distributor selling *** OCTG. *** could not remember the specific transactions. However, he said that his company does often lose sales to end users as a result of competing low-priced imports from ***.

***. *** due to competition from a distributor marketing *** OCTG, and that ***. *** could not remember the specific transactions, but thought it was very likely that they were valid. He said that he has often faced price competition from companies selling imported OCTG from Japan and Mexico. *** has a policy of maintaining low inventory levels and, therefore, it is likely to cut prices in order to make a sale.[96]

[96] ***. *** stated that the ***.

APPENDIX A

SUMMARY TABLES

Data for 1991 are part of the record of these investigations and appear in *Investigations Nos. 701-TA-363 and 364 (Preliminary) and Investigations Nos. 731-TA-711 through 717 (Preliminary): OCTG from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain*. Table A-1 summarizes data reported by the U.S. mills producing OCTG and the U.S. firms importing OCTG during the period January 1991 - March 1995. Trade data reported for 1991 exclude ***; financial data reported for 1991 exclude ***. Also, as noted earlier, market shares are calculated based on U.S. imports, rather than U.S. shipments of imports, in order to exclude the value of finishing operations performed in the United States on imported product. Import data are believed to be directly comparable between 1991 and subsequent periods. Import data for 1991 were adjusted in the following ways: data for Hyundai were excluded from the calculation of Korean data to derive "Korea LTFV" data; data for Hyundai were included in the calculation of "other sources" data, which were based on official Commerce statistics (for import quantity and value) and questionnaire data (for end-of-period inventories, actually calculated from 1992 beginning-of-period inventories).

Table A-1
OCTG: Summary data concerning the U.S. market, 1991-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

ITEM	1991	1992	1993	1994	Jan.-Mar. 1994	Jan.-Mar. 1995	1991-94	1991-92	1992-94	1992-93	1993-94	Jan.-Mar. 1994-95
U.S. consumption quantity:												
Amount	1,412,074	1,154,310	1,831,915	1,727,601	392,865	413,187	22.3%	-18.3%	49.7%	58.7%	-5.7%	5.2%
Producers' share	70.4%	91.2%	81.5%	80.7%	80.0%	88.5%	10.3	20.8	(10.5)	(9.7)	(0.8)	8.5
Importers' share:												
Argentina	***	***	***	***	***	***	***	***	***	***	***	***
Austria	***	***	***	***	***	***	***	***	***	***	***	***
Italy	***	***	***	***	***	***	***	***	***	***	***	***
Japan	9.7%	3.9%	6.2%	6.7%	6.6%	***	(2.9)	(5.8)	2.9	2.4	0.5	***
Korea (LTFV)	***	***	***	***	***	***	***	***	***	***	***	***
Mexico	***	0.1%	2.1%	2.3%	2.0%	2.0%	***	***	2.2	2.0	0.2	(0.0)
Spain	***	***	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***	***	***	***
Total	29.6%	8.8%	18.5%	19.3%	20.0%	11.5%	(10.3)	(20.8)	10.5	9.7	0.8	(8.5)
U.S. consumption value:												
Amount	1,026,855	706,801	1,125,119	1,067,767	239,181	265,451	4.0%	-31.2%	51.1%	59.2%	-5.1%	11.0%
Producers' share	67.4%	87.1%	78.6%	78.5%	78.6%	87.2%	11.1	19.7	(8.6)	(8.5)	(0.0)	8.5
Importers' share:												
Argentina	***	***	***	***	***	***	***	***	***	***	***	***
Austria	***	***	***	***	***	***	***	***	***	***	***	***
Italy	***	***	***	***	***	***	***	***	***	***	***	***
Japan	13.3%	6.8%	8.7%	9.2%	8.6%	***	(4.2)	(6.5)	2.4	1.9	0.5	***
Korea (LTFV)	***	***	***	***	***	***	***	***	***	***	***	***
Mexico	***	0.1%	1.8%	1.7%	1.7%	1.4%	***	***	1.6	1.7	(0.0)	(0.3)
Spain	***	***	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***	***	***	***
Total	32.6%	12.9%	21.4%	21.5%	21.4%	12.8%	(11.1)	(19.7)	8.6	8.5	0.0	(8.5)

Table A-1 -- Continued
OCTG: Summary data concerning the U.S. market, 1991-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

ITEM	1991	1992	1993	1994	Jan.-Mar. 1994	Jan.-Mar. 1995	1991-94	1991-92	1992-94	1992-93	1993-94	Jan.-Mar. 1994-95
U.S. imports from --												
Argentina												
Imports quantity	***	***	***	***	***	***	***	***	***	***	***	***
Imports value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Austria												
Imports quantity	***	***	***	***	***	***	***	***	***	***	***	***
Imports value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Italy												
Imports quantity	***	***	***	***	***	***	***	***	***	***	***	***
Imports value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Japan												
Imports quantity	136,441	44,445	113,790	116,164	25,938	***	-14.9%	-67.4%	161.4%	156.0%	2.1%	***
Imports value	136,788	46,095	97,520	97,782	20,666	***	-28.5%	-64.8%	103.3%	102.8%	0.3%	***
Unit value	$1,002.54	$1,082.12	$857.02	$841.76	$796.75	***	-16.0%	7.9%	-22.2%	-20.8%	-1.8%	***
Ending inventory quantity	75,483	55,414	55,772	52,808	50,338	38,916	-30.3%	-26.6%	-5.1%	0.6%	-5.7%	-22.7%
Korea (LTFV)												
Imports quantity	***	***	***	***	***	***	***	***	***	***	***	***
Imports value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Mexico												
Imports quantity	***	1,415	39,094	39,986	7,961	8,337	***	***	2725.9%	2662.8%	2.3%	4.7%
Imports value	***	818	20,091	18,558	4,133	3,756	***	***	2168.7%	2356.1%	-7.6%	-9.1%
Unit value	***	$577.93	$513.90	$464.12	$519.11	$450.56	***	***	-19.7%	-11.1%	-9.7%	-13.2%
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Spain												
Imports quantity	***	***	***	***	***	***	***	***	***	***	***	***
Imports value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Subject sources												
Imports quantity	***	***	***	***	***	***	***	***	***	***	***	***
Imports value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Other sources												
Imports quantity	***	***	***	***	***	***	***	***	***	***	***	***
Imports value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Total sources												
Imports quantity	417,931	101,649	339,284	333,473	78,441	47,485	-20.2%	-75.7%	228.1%	233.8%	-1.7%	-39.5%
Imports value	334,809	90,969	240,937	229,141	51,139	34,091	-31.6%	-72.8%	151.9%	164.9%	-4.9%	-33.3%
Unit value	$801.11	$894.93	$710.13	$687.14	$651.94	$717.93	-14.2%	11.7%	-23.2%	-20.6%	-3.2%	10.1%
Ending inventory quantity	181,743	105,172	123,519	116,485	115,278	102,267	-35.9%	-42.1%	10.8%	17.4%	-5.7%	-11.3%

Table A-1 -- Continued
OCTG: Summary data concerning the U.S. market, 1991-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

ITEM	1991	1992	1993	1994	Jan.-Mar. 1994	Jan.-Mar. 1995	1991-94	1991-92	1992-94	1992-93	1993-94	Jan.-Mar. 1994-95
U.S. producers' --												
Average capacity quantity	2,964,003	2,490,024	2,522,082	2,611,224	656,857	660,700	-11.9%	-16.0%	4.9%	1.3%	3.5%	0.6%
Production quantity	1,254,970	1,214,227	1,610,536	1,527,091	351,499	405,271	21.7%	-3.2%	25.8%	32.6%	-5.2%	15.3%
Capacity utilization	42.3%	48.8%	63.9%	58.5%	53.5%	61.3%	16.1	6.4	9.7	15.1	(5.4)	7.8
U.S. shipments:												
Quantity	994,143	1,052,661	1,492,631	1,394,128	314,424	365,702	40.2%	5.9%	32.4%	41.8%	-6.6%	16.3%
Value	692,046	615,832	884,182	838,626	188,042	231,360	21.2%	-11.0%	36.2%	43.6%	-5.2%	23.0%
Unit value	$696.12	$585.02	$592.36	$601.54	$598.05	$632.65	-13.6%	-16.0%	2.8%	1.3%	1.5%	5.8%
Export shipments:												
Quantity	292,213	175,488	85,901	140,919	14,411	22,325	-51.8%	-39.9%	-19.7%	-51.1%	64.0%	54.9%
Value	212,047	109,546	49,534	81,152	8,332	14,290	-61.7%	-48.3%	-25.9%	-54.8%	63.8%	71.5%
Unit value	$725.66	$624.24	$576.64	$575.88	$578.17	$640.09	-20.6%	-14.0%	-7.7%	-7.6%	-0.1%	10.7%
Exports/shipments	22.7%	14.3%	5.4%	9.2%	4.4%	5.8%	(13.5)	(8.4)	(5.1)	(8.8)	3.7	1.4
Ending inventory quantity	208,919	165,360	197,234	189,278	219,898	206,522	-9.4%	-20.8%	14.5%	19.3%	-4.0%	-6.1%
Inventory/shipments	16.2%	13.5%	12.5%	12.3%	16.7%	13.3%	(3.9)	(2.8)	(1.1)	(1.0)	(0.2)	(3.4)
Production workers	2,918	2,286	3,143	2,991	2,817	3,069	2.5%	-21.7%	30.8%	37.5%	-4.8%	8.9%
Hours worked (1,000)	6,358	5,145	6,904	6,379	1,498	1,677	0.3%	-19.1%	24.0%	34.2%	-7.6%	11.9%
Total comp. ($1,000)	130,478	107,132	145,391	139,052	30,803	37,546	6.6%	-17.9%	29.8%	35.7%	-4.4%	21.9%
Hourly total comp.	$20.52	$20.82	$21.06	$21.80	$20.56	$22.39	6.2%	1.5%	4.7%	1.1%	3.5%	8.9%
Productivity (tons/1,000 hrs.	197.4	236.0	233.3	239.4	234.6	241.7	21.3%	19.6%	1.4%	-1.1%	2.6%	3.0%
Unit labor costs	$103.97	$88.23	$90.27	$91.06	$87.63	$92.64	-12.4%	-15.1%	3.2%	2.3%	0.9%	5.7%
Net sales:												
Quantity	1,264,410	1,203,933	1,593,832	1,532,544	329,915	388,097	21.2%	-4.8%	27.3%	32.4%	-3.8%	17.6%
Value	887,593	707,059	937,448	918,030	196,393	245,617	3.4%	-20.3%	29.8%	32.6%	-2.1%	25.1%
Unit sales value	$701.98	$587.29	$588.17	$599.02	$595.28	$632.88	-14.7%	-16.3%	2.0%	0.2%	1.8%	6.3%
Cost of goods sold (COGS)	868,304	738,333	940,564	928,213	203,645	242,391	6.9%	-15.0%	25.7%	27.4%	-1.3%	19.0%
Gross profit (loss)	19,289	(31,274)	(3,116)	(10,183)	(7,252)	3,226	-152.8%	-262.1%	67.4%	90.0%	-226.8%	144.5%
SG&A expenses	45,486	39,245	39,867	35,724	8,975	10,125	-21.5%	-13.7%	-9.0%	1.6%	-10.4%	12.8%
Operating income (loss)	(26,197)	(70,519)	(42,983)	(45,907)	(16,227)	(6,899)	-75.2%	-169.2%	34.9%	39.0%	-6.8%	57.5%
Capital expenditures	35,005	33,514	20,806	22,068	5,504	4,338	-37.0%	-4.3%	-34.2%	-37.9%	6.1%	-21.2%
Unit COGS	$686.73	$613.27	$590.13	$605.67	$617.27	$624.56	-11.8%	-10.7%	-1.2%	-3.8%	2.6%	1.2%
Unit SG&A expenses	$35.97	$32.60	$25.01	$23.31	$27.20	$26.09	-35.2%	-9.4%	-28.5%	-23.3%	-6.8%	-4.1%
Unit operating income	($20.71)	($58.57)	($26.97)	($29.95)	($49.19)	($17.78)	-44.6%	-182.8%	48.9%	54.0%	-11.1%	63.9%
COGS/sales	97.8%	104.4%	100.3%	101.1%	103.7%	98.7%	3.3	6.6	(3.3)	(4.1)	0.8	(5.0)
Op. income (loss)/sales	-3.0%	-10.0%	-4.6%	-5.0%	-8.3%	-2.8%	(2.0)	(7.0)	5.0	5.4	(0.4)	5.5

Note. -- Please see table notes for tables A-2 and A-3 regarding period changes, rounding, unit values, and part-year inventory ratios.

Source: Compiled from data submitted in response to Commission questionnaires and from official statistics of Commerce.

Table A-2
Drill pipe: Summary data concerning the U.S. market, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

Table A-3
OCTG excluding drill pipe: Summary data concerning the U.S. market, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

Table A-4
Average number of production and related workers in U.S. mills and U.S. finishing facilities wherein OCTG are produced, hours worked,[1] wages and total compensation paid to such employees, and hourly wages and compensation, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.– 1994	1995
	Number of production and related workers (PRWs)				
Mills and finishers	3,557	4,654	4,580	4,439	4,594
Mills and finishers (excluding threaders)	3,172	4,304	4,181	4,019	4,274
	Hours worked by PRWs (*1,000 hours*)				
Mills and finishers	7,804	10,137	9,844	2,384	2,571
Mills and finishers (excluding threaders)	7,200	9,547	9,136	2,196	2,378
	Wages paid to PRWs (*1,000 dollars*)				
Mills and finishers	103,294	142,586	137,414	31,143	37,471
Mills and finishers (excluding threaders)	97,357	136,589	130,210	29,298	35,554
	Total compensation paid to PRWs (*1,000 dollars*)				
Mills and finishers	134,067	178,689	174,504	39,502	47,027
Mills and finishers (excluding threaders)	128,027	172,564	167,156	37,635	45,104

Continued on the following page.

Table A-4 -- Continued
Average number of production and related workers in U.S. mills and U.S. finishing facilities wherein OCTG are produced, hours worked,[1] wages and total compensation paid to such employees, and hourly wages and compensation, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.-- 1994	1995
	Hourly wages paid to PRWs				
Mills and finishers	$13.24	$14.07	$13.96	$13.06	$14.57
Mills and finishers (excluding threaders)	13.52	14.31	14.25	13.34	14.95
	Hourly total compensation paid to PRWs				
Mills and finishers	$17.18	$17.63	$17.73	$16.57	$18.29
Mills and finishers (excluding threaders)	17.78	18.08	18.30	17.14	18.97

[1] Includes hours worked plus hours of paid leave time.
[2] On the basis of total compensation paid.

Note.--Ratios are calculated using data where both comparable numerator and denominator information were supplied.

Source: Compiled from data submitted in response to Commission questionnaires.

Table A-5
OCTG: Summary financial data concerning consolidated results of U.S. producers including processors, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

(Quantity=*short tons*; value=*1,000 dollars*; unit values and unit COGS are *per short ton*; period changes=*percent*, except where noted)

Item	Reported data			Jan.-Mar.—		Period changes			
	1992	1993	1994	1994	1995	1992-94	1992-93	1993-94	Jan.-Mar. 1994-95
Net sales–									
Quantity	1,203,933	1,593,832	1,532,544	329,915	388,097	27.3	32.4	-3.8	17.6
Value	765,558	1,003,079	1,000,305	217,632	269,233	30.7	31.0	-0.3	23.7
Unit value	$636	$629	$653	$660	$694	2.6	-1.0	3.7	5.2
COGS	787,916	992,049	991,781	218,510	259,617	25.9	25.9	0.0	18.8
Gross profit (loss)	(22,358)	11,030	8,524	(878)	9,616	138.1	149.3	-22.7	1,195.2
SG&A expenses	45,684	47,471	43,871	11,444	12,258	-4.0	3.9	-7.6	7.1
Operating income (loss)	(68,042)	(36,441)	(35,347)	(12,322)	(2,642)	48.1	46.4	3.0	78.6
Capital expenditures	43,250	26,550	26,173	6,715	5,683	-39.5	-38.6	-1.4	-15.4
Unit COGS	$654	$622	$647	$662	$669	-1.1	-4.9	4.0	1.0
Unit SG&A expenses	$38	$30	$29	$35	$32	-24.6	-21.5	-3.9	-8.9
Unit oper income (loss)	$(57)	$(23)	$(23)	$(37)	$(7)	59.2	59.5	-0.9	81.8
COGS/sales[1]	102.9	98.9	99.1	100.4	96.4	-3.8	-4.0	0.2	-4.0
Oper income (loss)/sales[1]	(8.9)	(3.6)	(3.5)	(5.7)	(1.0)	5.4	5.3	0.1	4.7

[1] "Reported data" are in *percent* and "period changes" are in *percentage points*.

Note.–Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information.

Source: Compiled from data submitted in response to Commission questionnaires.

Table A-6
OCTG: Summary financial data concerning consolidated results of U.S. producers including processors and threaders, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

(Quantity=*short tons*; value=*1,000 dollars*; unit values and unit COGS are *per short ton*; period changes=*percent*, except where noted)

Item	Reported data			Jan.-Mar.—		Period changes			
	1992	1993	1994	1994	1995	1992-94	1992-93	1993-94	Jan.-Mar. 1994-95
Net sales–									
Quantity	1,203,933	1,593,832	1,532,544	329,915	388,097	27.3	32.4	-3.8	17.6
Value	771,708	1,009,989	1,007,327	219,240	271,426	30.5	30.9	-0.3	23.8
Unit value	$641	$634	$657	$665	$699	2.5	-1.1	3.7	5.2
COGS	789,961	994,664	990,981	217,264	258,527	25.4	25.9	-0.4	19.0
Gross profit (loss)	(18,253)	15,325	16,346	1,976	12,899	189.6	184.0	6.7	552.8
SG&A expenses	47,053	48,886	45,195	11,758	12,626	-3.9	3.9	-7.6	7.4
Operating income (loss)	(65,306)	(33,561)	(28,849)	(9,782)	273	55.8	48.6	14.0	102.8
Capital expenditures	45,726	28,003	28,622	7,839	6,390	-37.4	-38.8	2.2	-18.5
Unit COGS	$657	$628	$652	$670	$675	-0.8	-4.5	3.9	0.8
Unit SG&A expenses	$39	$31	$29	$36	$33	-24.5	-21.5	-3.9	-8.7
Unit oper income (loss)	$(56)	$(25)	$(24)	$(41)	$(8)	56.4	55.6	1.9	80.6
COGS/sales[1]	102.4	98.5	98.4	99.1	95.2	-4.0	-3.9	-0.1	-3.9
Oper income (loss)/sales[1]	(8.5)	(3.3)	(2.9)	(4.5)	0.1	5.6	5.1	0.5	4.6

[1] "Reported data" are in *percent* and "period changes" are in *percentage points*.

Note.–Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information.

Source: Compiled from data submitted in response to Commission questionnaires.

Table A-7
Drill pipe: Summary employment and financial data concerning consolidated results of U.S. producers, including processors, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995[1]

(Quantity=*short tons*; value=*1,000 dollars*; period changes=*percent*, except where noted)

	Reported data					Period changes			
				Jan.-Mar.–					Jan.-Mar.
Item	1992	1993	1994	1994	1995	1992-94	1992-93	1993-94	1994-95
Production workers	240	302	379	391	405	57.9	25.8	25.5	3.6
Hours worked (*1,000s*)	683	765	925	258	263	35.4	12.0	20.9	1.9
Wages paid (*$1,000*)	6,260	7,413	8,958	2,370	2,603	43.1	18.4	20.8	9.8
Total compensation (*$1,000*)	8,040	9,225	11,666	3,034	3,230	45.1	14.7	26.5	6.5
Hourly wages	$9.17	$9.69	$9.68	$9.19	$9.90	5.7	5.7	-0.1	7.7
Hourly compensation	$11.77	$12.06	$12.61	$11.76	$12.28	7.1	2.4	4.6	4.4
Net sales–									
Quantity[2]	14,416	20,868	18,199	6,954	5,352	26.2	44.8	-12.8	-23.0
Value	64,711	70,493	80,586	23,073	23,508	24.5	8.9	14.3	1.9
COGS	55,615	61,509	68,115	18,321	18,948	22.5	10.6	10.7	3.4
Gross profit (loss)	9,096	8,984	12,471	4,752	4,560	37.1	-1.2	38.8	-4.0
SG&A expenses	5,601	6,515	6,921	2,334	1,786	23.6	16.3	6.2	-23.5
Operating income (loss)	3,495	2,469	5,550	2,418	2,774	58.8	-29.4	124.8	14.7
Capital expenditures	8,683	4,134	2,148	813	771	-75.3	-52.4	-48.0	-5.2
COGS/sales[3]	85.9	87.3	84.5	79.4	80.6	-1.4	1.3	-2.7	1.2
Oper income (loss)/sales[3]	5.4	3.5	6.9	10.5	11.8	1.5	-1.9	3.4	1.3

[1] "Processors" add both value and, especially in the case of drill pipe, quantity to the unfinished OCTG they finish. Accordingly, it is problematic to calculate shipment (and consumption/market share) data for a combined mill/processor industry because of double-counted (non-toll) material and because of the different timing of shipments of unfinished and finished product. An additional complication for drill pipe specifically is that a significant share of the non-toll processors' shipments of finished product is exported; these exports consist of both imported and domestically sourced unfinished drill pipe that are included in the U.S. consumption figures shown elsewhere in the report.

[2] The quantities include only those for drill pipe producers and not for processors to avoid double counting, therefore unit values are not computed.

[3] "Reported data" are in *percent* and "period changes" are in *percentage points.*

Note.–Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Ratios are calculated using data of firms supplying both numerator and denominator information.

Source: Compiled from data submitted in response to Commission questionnaires.

Table A-8
OCTG excluding drill pipe: Summary employment and financial data concerning consolidated results of U.S. producers, including processors, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995[1]

(Quantity=*short tons*; value=*1,000 dollars*; period changes=*percent*, except where noted)

Item	Reported data					Period changes			
				Jan.-Mar.–					Jan.-Mar.
	1992	1993	1994	1994	1995	1992-94	1992-93	1993-94	1994-95
Production workers	2,932	4,002	3,802	3,628	3,869	29.7	36.5	-5.0	6.6
Hours worked (*1,000s*)	6,517	8,782	8,211	1,938	2,115	26.0	34.8	-6.5	9.1
Wages paid (*$1,000*)	91,097	129,176	121,252	26,928	32,951	33.1	41.8	-6.1	22.4
Total compensation (*$1,000*)	119,987	163,339	155,490	34,601	41,874	29.6	36.1	-4.8	21.0
Hourly wages	$13.98	$14.71	$14.77	$13.89	$15.58	5.6	5.2	0.4	12.1
Hourly compensation	$18.41	$18.60	$18.94	$17.85	$19.80	2.9	1.0	1.8	10.9
Net sales–									
Quantity[2]	1,189,517	1,572,964	1,514,345	322,961	382,747	27.3	32.2	-3.7	18.5
Value	700,847	932,586	919,719	194,559	245,725	31.2	33.1	-1.4	26.3
COGS	732,301	930,540	923,666	200,189	240,669	26.1	27.1	-0.7	20.2
Gross profit (loss)	(31,454)	2,046	(3,947)	(5,630)	5,056	87.5	106.5	-292.9	189.8
SG&A expenses	40,083	40,956	36,950	9,110	10,472	-7.8	2.2	-9.8	15.0
Operating income (loss)	(71,537)	(38,910)	(40,897)	(14,740)	(5,416)	42.8	45.6	-5.1	63.3
Capital expenditures	34,567	22,416	24,025	5,902	4,912	-30.5	-35.2	7.2	-16.8
COGS/sales[3]	104.5	99.8	100.4	102.9	97.9	-4.1	-4.7	0.6	-5.0
Oper income (loss)/sales[3]	(10.2)	(4.2)	(4.4)	(7.6)	(2.2)	5.8	6.0	-0.3	5.4

[1] "Processors" add both value and, especially in the case of drill pipe, quantity to the unfinished OCTG they finish. Accordingly, it is problematic to calculate shipment (and consumption/market share) data for a combined mill/processor industry because of double-counted (non-toll) material and because of the different timing of shipments of unfinished and finished product.

[2] The quantities include only those for OCTG (other than drill pipe) producers and not for processors to avoid double counting, therefore unit values are not computed.

[3] "Reported data" are in *percent* and "period changes" are in *percentage points*.

Note.–Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Ratios are calculated using data of firms supplying both numerator and denominator information.

Source: Compiled from data submitted in response to Commission questionnaires.

Table A-9
OCTG excluding drill pipe: Summary employment and financial data concerning consolidated results of U.S. producers, including processors and threaders, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995[1]

(Quantity=*short tons*; value=*1,000 dollars*; period changes=*percent*, except where noted)

	Reported data					Period changes			
				Jan.-Mar.–					Jan.-Mar.
Item	1992	1993	1994	1994	1995	1992-94	1992-93	1993-94	1994-95
Production workers	3,317	4,352	4,201	3,958	4,189	26.7	31.2	-3.5	5.8
Hours worked (*1,000s*)	7,121	9,372	8,919	2,126	2,308	25.2	31.6	-4.8	8.6
Wages paid (*$1,000*)	97,034	135,173	128,456	28,773	34,868	32.4	39.3	-5.0	21.2
Total compensation (*$1,000*)	126,027	169,464	162,838	36,468	43,797	29.2	34.5	-3.9	20.1
Hourly wages	$13.63	$14.42	$14.40	$13.53	$15.11	5.7	5.8	-0.1	11.6
Hourly compensation	$17.70	$18.08	$18.26	$17.15	$18.98	3.2	2.2	1.0	10.6
Net sales–									
Quantity[2]	1,189,517	1,572,964	1,514,345	322,961	382,745	27.3	32.2	(3.7)	18.5
Value	706,997	939,496	926,741	196,167	247,918	31.1	32.9	(1.4)	26.4
COGS	734,346	933,155	922,866	198,943	239,579	25.7	27.1	(1.1)	20.4
Gross profit (loss)	(27,349)	6,341	3,875	(2,776)	8,339	114.2	123.2	(38.9)	400.4
SG&A expenses	41,452	42,371	38,274	9,424	10,840	-7.7	2.2	(9.7)	15.0
Operating income (loss)	(68,801)	(36,030)	(34,399)	(12,200)	(2,501)	50.0	47.6	4.5	79.5
Capital expenditures	37,043	23,869	26,474	7,026	5,619	-28.5	(35.6)	10.9	(20.0)
COGS/sales[3]	103.9	99.3	99.6	101.4	96.6	-4.3	(4.5)	0.3	(4.8)
Oper income (loss)/sales[3]	(9.7)	(3.8)	(3.7)	(6.2)	(1.0)	6.0	5.9	0.1	5.2

[1] "Processors" add both value and quantity to the unfinished OCTG they finish. Accordingly, it is problematic to calculate shipment (and consumption/market share) data for a combined mill/processor industry because of double-counted (non-toll) material and because of the different timing of shipments of unfinished and finished product.

[2] The quantities include only those for OCTG (other than drill pipe) producers and not for processors and threaders to avoid double counting, therefore unit values are not computed.

[3] "Reported data" are in *percent* and "period changes" are in *percentage points*.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Ratios are calculated using data of firms supplying both numerator and denominator information.

Source: Compiled from data submitted in response to Commission questionnaires.

APPENDIX B

FEDERAL REGISTER NOTICES OF THE COMMISSION AND COMMERCE

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–364 (Final)]

Oil Country Tubular Goods From Italy

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701–TA–364 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Italy of oil country tubular goods (OCTG),[1] provided for in subheadings 7304.20, 7305.20, and 7306.20 of the Harmonized Tariff Schedule of the United States.

Pursuant to a request from petitioner under section 705(a)(1) of the Act (19 U.S.C. 1671d(a)(1)), Commerce has extended the date for its final determination to coincide with that to be made in the ongoing antidumping investigation on OCTG from Italy. Accordingly, the Commission will not establish a schedule for the conduct of the countervailing duty investigation until Commerce makes a preliminary determination in the antidumping investigation (currently scheduled for January 26, 1995).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: December 2, 1994.

FOR FURTHER INFORMATION CONTACT: Douglas Corkran (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Italy of OCTG. The investigation was requested in petitions filed on June 30, 1994, by IPSCO Steel, Inc. (Camanche, IA);

[1] For the purposes of this investigation, OCTG are hollow steel products of circular cross-section. These products include oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether or not conforming to American Petroleum Institute ("API") or non-API specifications, whether finished or unfinished (including green tubes). This investigation does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium.

Koppel Steel Corp. (Beaver Falls, PA); Maverick Tube Corp. (Chesterfield, MO); North Star Steel Ohio (Youngstown, OH); U.S. Steel Group (Pittsburgh, PA); and USS/Kobe Steel Co. (Lorain, OH).

Participation in the investigation and public service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

Issued: January 6, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–811 Filed 1–11–95; 8:45 am]

BILLING CODE 7020-02-P

[Investigations Nos. 701–TA–363 & 364 (Final) and 731–TA–711–715 (Final)]

OCTG From Argentina, Austria, Italy, Japan, and Korea

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final countervailing duty investigation and final antidumping investigations and scheduling of the ongoing countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution and scheduling of countervailing duty investigation No. 701–TA–363 (Final) and antidumping investigations Nos. 731–TA–711–715 (Final) under sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b) and 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Argentina, Austria, Italy, Japan, and Korea of oil country tubular goods (OCTG),[1] provided for in subheadings 7304.20, 7305.20, and 7306.20 of the Harmonized Tariff Schedule of the United States. The Commission also gives notice of the schedule to be followed in the ongoing countervailing duty investigation regarding imports of OCTG from Italy (inv. No. 701–TA–364 (Final)), which the Commission instituted effective December 2, 1994 (60 F.R. 2983, January 12, 1995).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: January 23, 1995 (inv. No. 701–TA–364 (Final)) and January 30, 1995 (invs. Nos. 731–TA–711–715 (Final))

FOR FURTHER INFORMATION CONTACT: Douglas Corkran (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background.—The subject investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. § 1671b) are being provided to manufacturers, producers, or exporters in Austria of OCTG and that imports of OCTG from Argentina, Austria, Italy, Japan, and Korea are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). These investigations were requested in petitions filed on June 30, 1994, by Bellville Tube Corp. (Bellville, TX); IPSCO Steel, Inc. (Camanche, IA); Koppel Steel Corp. (Beaver Falls, PA); Maverick Tube Corp. (Chesterfield, MO); North Star Steel Ohio (Youngstown, OH); U.S. Steel Group (Pittsburgh, PA); and USS/Kobe Steel Co. (Lorain, OH).

Participation in the investigations and public service list.—Any person having already filed an entry of appearance in the countervailing duty investigation on OCTG from Italy is considered a party in the antidumping investigations. Any other persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these final investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than twenty-one (21) days after

[1] For the purposes of these investigations, OCTG are hollow steel products of circular cross-section. These products include oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether or not conforming to American Petroleum Institute ("API") or non-API specifications, whether finished or unfinished (including green tubes). This investigation does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium.

the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in these investigations will be placed in the nonpublic record on June 14, 1995, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on June 27, 1995, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 20, 1995. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 22, 1995, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigations as possible any requests to present a portion of their hearing testimony in camera.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is June 21, 1995. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is July 6, 1995; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before July 6, 1995. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

Issued: February 17, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–4430 Filed 2–22–95; 8:45 am]

BILLING CODE 7020–02–P

Authority: The institution of this investigation is being rescinded under authority of the Tariff Act of 1930, title VII.

Issued: March 22, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–7569 Filed 3–27–95; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–711 (Final)]

Oil Country Tubular Goods (OCTG) From Argentina

AGENCY: United States International Trade Commission.

ACTION: Rescission of institution of final investigation.

SUMMARY: On March 8, 1995, the Commission received a letter from the U.S. Department of Commerce (Commerce) stating that it had amended its preliminary determination on OCTG from Argentina to correct for a ministerial error. Pursuant to this correction, Commerce has made a preliminary determination that OCTG from Argentina are not being sold at less than fair value within the meaning of the Tariff Act of 1930. Accordingly, the Commission rescinds its institution of a final investigation of OCTG from Argentina. However, because of the Commission's ongoing investigations on OCTG from Austria, Italy, Japan, and Korea, and because imports of OCTG from Argentina remain subject to investigation at Commerce, the Commission will continue its investigative activities, pending a final determination by Commerce.

EFFECTIVE DATE: March 8, 1995.

FOR FURTHER INFORMATION CONTACT: Douglas Corkran (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

[Investigations Nos. 731–TA–711 and 716–717 (Final)]

OCTG From Argentina, Mexico, and Spain

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of final antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of antidumping investigations Nos. 731–TA–711 and 716–717 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Argentina, Mexico, and Spain of oil country tubular goods (OCTG),[1] provided for in subheadings 7304.20, 7305.20, and 7306.20 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: June 20, 1995.

FOR FURTHER INFORMATION CONTACT: Douglas Corkran (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background.—The subject investigations are being instituted as a result of affirmative final determinations by the Department of Commerce that imports of OCTG from Argentina, Mexico, and Spain are being sold in the United States at less than fair value (LTFV) within the meaning of section 733 of the Act (19 U.S.C. § 1673b). Commerce's preliminary determinations of sales at LTFV were negative (60 F.R. 6503, February 2, 1995, and 60 F.R. 13119, March 10, 1995). These investigations were requested in petitions filed on June 30, 1994, by Bellville Tube Corp. (Bellville, TX); IPSCO Steel, Inc. (Camanche, IA); Koppel Steel Corp. (Beaver Falls, PA); Maverick Tube Corp. (Chesterfield, MO); North Star Steel Ohio (Youngstown, OH); U.S. Steel Group (Pittsburgh, PA); and USS/Kobe Steel Co. (Lorain, OH). The schedule for the subject investigations will be identical to that of the Commission's ongoing countervailing and antidumping duty investigations of the subject product (60 F.R. 10107, February 23, 1995).

Participation in the investigations and public service list.—Any person having already filed an entry of appearance in the ongoing countervailing and antidumping duty investigations on OCTG is considered a party in the subject antidumping investigations. Any other persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission not later than two (2) days after publication of this notice in the Federal Register. The time limits established in section 201.11(b) of the Commission's rules are hereby waived.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—The Secretary will make BPI gathered in these final investigations available to additional authorized applicants under the APO issued in the investigations, provided that the application is made not later than two (2) days after the publication of this notice in the Federal Register. The time limits established in section 207.7(a) of the Commission's rules are hereby waived. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in these investigations was placed in the nonpublic record on June 14, 1995, and a public version was issued on June 16, 1995, pursuant to section 207.21 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on June 27, 1995, at the U.S. International Trade Commission Building. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 22, 1995, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules.

Requests for a separate hearing in these investigations for the limited purpose of supplementing the June 27, 1995, hearing record with testimony and evidence solely related to these antidumping duty investigations should be filed in writing with the Commission not later than June 30, 1995. If such a hearing is requested, parties will be contacted regarding the dates for the hearing and for the filing of briefs.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is June 21, 1995. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is July 6, 1995; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before July 6, 1995. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections § 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections § 201.16(c) and 207.3 of the rules, each

[1] For the purposes of these investigations, OCTG are hollow steel products of circular cross-section. These products include oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether or not conforming to American Petroleum Institute ("API") or non-API specifications, whether finished or unfinished (including green tubes). These investigations do not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium.

document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted *under* authority of the Tariff Act of 1930, title VII. This notice is published *pursuant* to section 207.20 of the Commission's rules.

By order of the Commission.

Issued: June 20, 1995

Donna R. Koehnke,

Secretary.

[FR Doc. 95–15547 Filed 6–22–95; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–433–806]

Final Affirmative Countervailing Duty Determination: Certain Oil Country Tubular Goods ("OCTG") From Austria

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Yeske or Daniel Lessard, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0189 or 482–1778, respectively.

Final Determination

The Department of Commerce ("the Department") determines that benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Austria of certain oil country tubular goods ("OCTG"). For information on the estimated net subsidy, please see the *Suspension of Liquidation* section of this notice.

Case History

Since the publication of the notice of the preliminary determination in the **Federal Register** (60 FR 4600, January 24, 1995), the following events have occurred. On February 2, 1995, pursuant to a request by Voest-Alpine Stahlrohr Kindberg ("Kindberg"), the Department postponed the final determination in the companion antidumping investigation (60 FR 6512) until not later than June 19, 1995. Because this investigation is aligned with the companion antidumping investigation, we notified parties that the final determination in this investigation would also be made no later than June 19, 1995.

We conducted verification of the responses submitted by the Government of Austria ("GOA") and Voest-Alpine Stahlrohr Kindberg ("Kindberg") from February 27 through March 8, 1994. Both respondents and petitioners submitted case and rebuttal briefs on May 23 and May 30, 1995, respectively. A hearing was not requested.

Scope of the Investigation

For purposes of this investigation, OCTG are hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

After the publication of the preliminary determination, we found that HTSUS item numbers 7304.20.10.00, 7304.20.20.00, 7304.20.30.00, 7304.20.40.00, 7304.20.50.10, 7304.20.50.50, 7304.20.60.10, 7304.20.60.50, and 7304.20.80.00 were no longer valid HTSUS item numbers. Accordingly, these numbers have been deleted from the scope definition.

Although the *HTSUS* subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994. References to the Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments, 54 FR 23366 (May 31, 1989) ("Proposed Regulations"), which has been withdrawn, are provided solely for further explanation of the Department's CVD practice.

Injury Test

Because Austria is a "country under the Agreement" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission ("ITC") must determine whether imports of OCTG from Austria materially injure, or threaten material injury to, a U.S. industry. On August 24, 1994, the ITC published its preliminarily determination that there is a reasonable indication that an industry in the United States is being materially injured or threatened with material injury by reasons of imports from Austria of the subject merchandise (59 FR 43591, August 24, 1994).

Corporate History of Respondent Kindberg

Prior to 1987, the subject merchandise was produced in the steel division of Voest-Alpine AG ("VAAG"), a large conglomerate which also had engineering and finished products divisions. In 1987, VAAG underwent a major restructuring and several new companies were formed from the three major divisions of VAAG. The steel division was incorporated as Voest-Alpine Stahl GmbH, Linz ("VA Linz"). Among VA Linz's separately incorporated subsidiaries were Kindberg and Voest-Alpine Stahl Donawitz GmbH ("Donawitz"). VAAG became a holding company for VA Linz and its other former divisions.

In 1988, VAAG transferred its ownership interest in VA Linz to Voest-Alpine Stahl AG ("VAS"). At the same time, Kindberg became a subsidiary of Donawitz. Donawitz and other companies were owned by VAS, which in turn was owned by VAAG.

In 1989, VAS and all other subholdings of VAAG were transferred to Industrie und Beteiligungsverwaltung GmbH ("IBVG"). In 1990, IBVG, in turn, was renamed Austrian Industries AG ("AI"). VAAG remained in existence, but separate from IBVG and AI, holding only residual liabilities and non-steel assets.

In 1991, as part of the reorganization of the long products operations, Donawitz was split. The rail division remained with the existing company (*i.e.*, Donawitz), however, the name of the company was changed to Voest-Alpine Schienen GmbH ("Schienen"). In addition to producing rails, Schienen also became the holding company for Kindberg and the other Donawitz subsidiaries. The metallurgical division of the former Donawitz was incorporated as a new company and was

named Voest-Alpine Stahl Donawitz ("Donawitz II").

Equityworthiness

As discussed below, we have determined that the GOA provided equity infusions, through the state-owned industry holding company, Österreichische Industrieholding-Aktiengesellschaft ("ÖIAG"), to VAAG in the years 1983, 1984, and 1986, and to Kindberg in 1987. In order for the Department to find an equity infusion countervailable, it must be determined that the infusion is provided on terms inconsistent with commercial considerations. Petitioners have alleged that VAAG and Kindberg were unequityworthy in the years in which they received equity infusions and that the equity infusions were, therefore, inconsistent with commercial considerations. According to § 355.44(e)(2) of the Department's *Proposed Regulations*, for a company to be equityworthy it must show the ability to generate a reasonable rate of return within a reasonable period of time. A detailed equityworthiness analysis can be found in the Department's Concurrence Memorandum dated June 19, 1995. A summary of that analysis follows.

In the Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria, 58 FR 37217 (July 9, 1993) ("Certain Steel"), the Department found VAAG to be unequityworthy in the years 1978–84 and 1986. Respondents have not questioned this determination and no additional information concerning that period has come to light. Therefore, we determine VAAG to be unequityworthy during the period 1978–84, and for 1986.

With respect to the equityworthiness of Kindberg in 1987, we have further examined the information provided regarding Kindberg's future prospects. This information included a more detailed excerpt of the VA Neu study than was available at the time of the preliminary determination, ÖIAG Finance Concepts, and an internal operating forecast performed by Kindberg. Although the forecasts show a trend toward profitability, they fail to establish that Kindberg would generate a reasonable rate of return in a reasonable period of time. Therefore, we determine that the 1987 equity infusion into Kindberg was inconsistent with commercial considerations. We also reaffirm our preliminary determination, based on our analysis from Certain Steel, that VAAG's poor performance prior to the restructuring supports a finding that the 1987 infusion into Kindberg was inconsistent with commercial considerations.

Allocation of Non-Recurring Benefits

We have determined that the subsidies received by Kindberg are "non-recurring" because the benefits are exceptional and the recipient could not expect to receive them on an ongoing basis (see, the *General Issues Appendix* to the Final Countervailing Duty Determination: Certain Steel Products from Austria ("GIA"), 58 FR 37225, 37226 (July 9, 1993)). Consequently, as explained in § 355.49 of the *Proposed Regulations*, we have allocated the benefits over a period equal to the average useful life of assets in the industry.

A company-specific discount rate was not available for the allocation. Therefore, we have used the bond rate designated as being for "Industry and other Austrian Issuers" in the Austrian National Bank's Annual Report. Although respondents reported an alternative borrowing rate to be used as the discount rate, we verified that their proposed rate reflected large government borrowings. Because we are measuring the benefit to the recipient company, we prefer a commercial benchmark. Therefore, we have rejected the rate dominated by government borrowing and selected instead a rate which reflects what it costs businesses to borrow.

Calculation of the Benefit

For purposes of this final determination, the period for which we are measuring subsidies (the POI) is calendar year 1993. In determining the benefits received under the various programs described below, we used the following calculation methodology. We first calculated the benefit attributable to the POI for each countervailable program, using the methodologies described in each program section below. For each program, we then divided the benefit attributable to Kindberg in the POI by Kindberg's total sales revenue. Next, we added the benefits for all programs to arrive at Kindberg's total subsidy rate. Because Kindberg is the only respondent company in this investigation, this rate is also the country-wide rate.

Based upon our analysis of the petition, responses to our questionnaires, verifications and comments made by interested parties, we determine the following:

A. Programs Determined To Be Countervailable

We determine that subsidies are being provided to manufacturers, producers, or exporters in Austria of OCTG under the following programs:

1. Equity Infusions to Voest-Alpine AG (VAAG): 1983, 1984 and 1986

The GOA provided equity infusions through ÖIAG to VAAG in 1983, 1984 and 1986, while VAAG owned the facilities which became Kindberg, the producer of the subject merchandise. The 1983 and 1984 infusions were given by ÖIAG pursuant to Law 589/1983. The 1986 equity infusion was given as an advance payment for funds to be provided under Law 298/1987 (the ÖIAG Financing Act). Law 589/1983 and Law 298/1987 provide authority for disbursement of funds solely to companies of ÖIAG, of which VAAG is one.

In Certain Steel, the Department determined these equity infusions to be *de jure* specific. Respondents did not provide any information disputing these findings in this proceeding. Moreover, since we have determined that VAAG was unequityworthy in these years, we determine that these infusions were provided to VAAG on terms inconsistent with commercial considerations.

Respondents argue that subsidies received by VAAG prior to the 1987 restructuring are not appropriately attributable to Kindberg. However, we have determined that these subsidies continue to benefit Kindberg's production of OCTG, in accordance with restructuring methodology discussed in the *GIA*, at 37265–8. (See *Comment Two*, below, for a discussion of respondents' comments and the Department's position on this matter.)

To calculate the portion of these subsidies to VAAG which is attributable to Kindberg, we divided Kindberg's asset value on January 1, 1987, by VAAG's total asset value on December 31, 1986 (*i.e.*, pre-restructuring). This ratio best reflects the proportion of VAAG's total 1986 assets that became Kindberg in 1987.

We then applied this ratio to VAAG's subsidy amount to calculate the portion of these infusions allocable to Kindberg. To calculate the benefit for the POI, we treated each of the equity amounts as a grant and allocated the benefits over a 15 year period beginning in the years the equity was received by VAAG. Our treatment of equity as grants is discussed in the *GIA*, at 37239. We then divided the benefit by total sales of Kindberg during the POI. On this basis, we determine the net subsidies for these equity infusions to be 1.37 percent *ad valorem* for all manufacturers, producers, and exporters in Austria of OCTG.

2. Grants Provided to VAAG: 1981–86

The GOA provided grants to VAAG through ÖIAG pursuant to Law 602/1981, Law 589/1983, and Law 298/1987. In Certain Steel, the Department found grants disbursed under Law 602/1981, Law 589/1983 and Law 298/1987 to be provided specifically to the steel industry and, hence, countervailable (58 FR 37221). Respondents have not challenged the countervailability of these grants in this proceeding.

The grant received in 1981 was less than 0.50 percent of VAAG's sales in that year. Hence, as explained in § 355.44(a) of our *Proposed Regulations* and the *GIA*, at 37217, we have expensed the grant received in 1981 in that year. To calculate the benefit from the other grants, we used the methodology described in *Equity Infusions to VAAG: 1983–84, 1986* section, above. On this basis, we determine the net subsidies under this program to be 3.68 percent *ad valorem* for all manufacturers, producers, and exporters in Austria of OCTG.

3. Assumption of Losses at Restructuring by VAAG on Behalf of Kindberg

In Certain Steel, we determined that, in connection with the 1987 restructuring, VAAG retained all the losses carried forward on its balance sheet and that no losses were assigned to its newly created subsidiaries. VAAG later received funds from the GOA under Law 298/1987 to offset these losses. We found that VAAG's subsidiaries benefitted because VAAG retained these losses when the company was restructured. In the present investigation, petitioners allege that this assumption of losses provided a countervailable subsidy to Kindberg, a subsidiary of VAAG.

In our preliminary determination, respondents argued that the assumption of losses did not provide a benefit to Kindberg because Kindberg could have used such losses to reduce income-tax liabilities in the future. We stated that this argument would be more closely analyzed for our final determination.

At verification, we learned that Austrian Commercial Law and Austrian Tax Law distinguish between two types of losses: tax losses and commercial losses. Kindberg's tax losses *were* carried forward after the restructuring and were used to offset income taxes in future years. The losses which were retained by VAAG and countervailed in Certain Steel, were commercial losses. All commercial losses were retained by VAAG after the restructuring. Hence we conclude that the losses retained by VAAG could not be used to reduce the future tax liabilities of Kindberg.

Respondents now argue that these commercial losses were not generated by Kindberg and, therefore, the assumption of losses by VAAG does not benefit Kindberg. At verification, however, respondents were unable to identify how the losses which remained on VAAG's books were incurred. Moreover, Kindberg's auditor's report states that Kindberg incurred significant commercial losses in 1985 and 1986. Hence, we find no basis for concluding that the losses retained by VAAG should not be attributed in part to Kindberg.

We concluded in Certain Steel that, "if VAAG had assigned these losses to its new companies, then each of the new companies would have been in a * * * precarious financial position" (Certain Steel, 37221). Similarly, we determine that the assumption of losses provided a benefit to Kindberg.

To calculate the benefit, we have treated the losses not distributed to Kindberg as a grant received in 1987. Kindberg's share of the losses was determined by reference to its asset value relative to total VAAG assets. To allocate the benefit, we used the methodology described in *Equity Infusions to VAAG: 1983–84, 1986* section, above. On this basis, we determine the net subsidies for this program to be 1.26 percent *ad valorem* for all manufacturers, producers, and exporters in Austria of OCTG.

4. Equity Infusion to Kindberg: 1987

A direct equity infusion from ÖIAG to Kindberg was made on January 1, 1987, pursuant to Law 298/1987. As under Law 589/1983, funds under Law 298/1987 were provided solely to the steel industry. Therefore, we find this infusion to be specific. Moreover, since we have determined that Kindberg was unequityworthy in 1987, this infusion was made on terms inconsistent with commercial considerations. Thus, we determine this infusion to be countervailable.

To calculate the benefit for the POI, we treated the equity amount as a grant and allocated the benefit over 15 years. Because the equity investment was made directly in Kindberg, and because Kindberg was separately incorporated as of that year, the entire benefit has been attributed to Kindberg. The portion allocated to the POI was divided by total sales of Kindberg during the POI to determine the *ad valorem* benefit. On this basis, we determine the net subsidies for this program to be 5.13 percent *ad valorem* for all manufacturers, producers, and exporters in Austria of OCTG.

B. Programs Determined not to Benefit the Subject Merchandise

We included in our investigation subsidies provided after 1987 to VA Linz, VAAG and VAS based on petitioners' allegation that subsidies to these companies benefitted Kindberg. Based on information provided in the responses and our findings at verification, we determine that no subsidies were being transmitted to Kindberg from its related companies. Therefore, the following programs did not bestow a benefit on Kindberg. For a discussion of the transmittal of subsidies, see the Department's Concurrence Memorandum dated June 19, 1995.

1. 1987 Equity Infusion to VA Linz.
2. Post-Restructuring Equity Infusions to VAAG.
3. Post-Restructuring Grants to VAAG.
4. Post-Restructuring Grants to VAS.

C. Analysis of Upstream Subsidies

The petitioners have alleged that manufacturers, producers, or exporters of OCTG in Austria receive benefits in the form of upstream subsidies. Section 771A(a) of the Tariff Act of 1930, as amended (the Act), defines upstream subsidies as follows:

The term "upstream subsidy" means any subsidy * * * by the government of a country that:

(1) Is paid or bestowed by that government with respect to a product (hereinafter referred to as an "input product") that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding;

(2) In the judgment of the administering authority bestows a competitive benefit on the merchandise; and

(3) Has a significant effect on the cost of manufacturing or producing the merchandise.

Each of the three elements listed above must be satisfied in order for the Department to find that an upstream subsidy exists. The absence of any one element precludes the finding of an upstream subsidy. As discussed below, respondents have shown that a competitive benefit does not exist. Therefore, we have not addressed the first and third criteria.

Competitive Benefit

In determining whether subsidies to the upstream supplier(s) confer a competitive benefit within the meaning of section 771A(a)(2) on the subject merchandise, section 771A(b) directs that:

* * * a competitive benefit has been bestowed when the price for the input product * * * is lower than the price that the manufacturer or producer of merchandise

which is the subject of a countervailing duty proceeding would otherwise pay for the product in obtaining it from another seller in an arms-length transaction.

The *Proposed Regulations* offer the following hierarchy of benchmarks for determining whether a competitive benefit exists:

> * * * In evaluating whether a competitive benefit exists pursuant to paragraph (a)(2) of this section, the Secretary will determine whether the price for the input product is lower than:
>
> (1) The price which the producer of the merchandise otherwise would pay for the input product, produced in the same country, in obtaining it from another unsubsidized seller in an arm's length transaction; or
>
> (2) A world market price for the input product.

In this instance, there is not another supplier in Austria of the input product, steel blooms. However, Kindberg does purchase the input product from an unrelated foreign supplier. Therefore, we have used the prices charged to Kindberg by the foreign supplier as the benchmark world market price.

Because the foreign supplier's prices are delivered, we made an upward adjustment to the domestic supplier's prices to account for the cost of freight between Kindberg and that supplier. Based on our comparison of these delivered prices for identical grades of steel blooms, we found no competitive benefit was bestowed on Kindberg during the POI. Therefore, we determine that Kindberg did not receive an upstream subsidy.

Interested Party Comments

Comment One: Attribution of VAAG subsidies to Kindberg

Respondents argue that in *British Steel plc* v. *United States*, the CIT established that "a subsidy cannot be provided to a 'productive unit' or 'travel' with it unless the 'productive unit' is itself an artificial person capable of receiving a subsidy." Prior to 1987, Kindberg was not a separately incorporated company—Kindberg was not an "artificial person." Therefore, respondents claim that subsidies received by VAAG prior to 1987 could not "travel" with Kindberg after the restructuring. Moreover, they argue that the requirements in British Steel also preclude the Department from attributing losses assumed at restructuring by VAAG to Kindberg because only subsidies received directly by Kindberg after its incorporation are countervailable.

Petitioners assert that British Steel is irrelevant to Kindberg because it involved cases where subsidized state-owned companies were privatized. However, in this investigation, the Austrian government still owns 100% of Kindberg (*i.e.*, Kindberg has not been privatized). Petitioners note that two types of corporate restructuring were identified in Certain Steel. Privatizations (*i.e.*, mergers, spin-offs, and acquisitions) were one type of corporate restructuring, while internal corporate restructurings were the other type. The 1987 VAAG restructuring was identified as an internal corporate restructuring. Petitioners note that an internal restructuring does not constitute a sale for purposes of evaluating the extent to which subsidies passed through to a new entity. Therefore, they assert that none of the issues addressed in British Steel are relevant.

DOC Position

Respondents' reliance on *British Steel PLC* v. *United States*, Slip Op. 95–17 (CIT February 9, 1995) is misplaced. First, British Steel is not a final decision of the CIT, and no decision has been made regarding whether any issue contained in that opinion should be appealed. Therefore, the Department is not bound by that opinion.

Further, even if British Steel were a final decision, the issues contained in the opinion which relate to privatization are inapposite in this case. The entire British Steel opinion is premised on an actual privatization of a company, *i.e.*, a sale of all or part of the government's interest. In this case, Kindberg has not been privatized. Although the immediate parent of Kindberg changed through the restructuring, the ultimate equity owner was and remains the GOA. The *British Steel* opinion did not address a situation in which a company was restructured, but there was no sale of the government's interest.

Comment Two: Allocation Time-Period

Respondents argue that allocating benefits from nonrecurring grants and equity infusions over fifteen years, based on the IRS tables, contravenes established judicial precedent, as well as congressional intent. They state that a recent CIT decision (*i.e.*, *British Steel plc* v. *the United States*) held that this allocation methodology, used in *Certain Steel*, was contrary to law. Respondents argue that the Department should employ an allocation methodology which reasonably reflects the relevant commercial and competitive advantages enjoyed by Kindberg. Specifically, the Department should allocate benefits using the 3, 5, and 10-year schedules of depreciation found in Kindberg's balance sheet and statement of profit and loss.

Petitioners claim that the the CIT did not find that the Department's allocation methodology was unlawful *per se*. The court's specific concern was that the Department had not adequately explained how the IRS tables reflected the benefit from subsidies used for purposes other than the purchase of physical assets. The court recognized that, after engaging in an examination of the firms under investigation, the Department might still find that the IRS tables could serve as a proxy for allocating subsidy benefits.

Petitioners argue that Kindberg has not provided sufficient evidence that fifteen years does not reflect the benefit to Kindberg from non-recurring subsidies. Petitioners note that Kindberg did not provide cites for the 3, 5, and 10 year depreciation schedules. Moreover, Kindberg did not explain the relevance of these depreciation schedules, nor did it identify the assets that are subject to the depreciation schedules. Given the lack of contrary evidence in the record, the Department should determine that the 15-year allocation period reasonably represents the benefit to Kindberg from non-recurring subsidies.

DOC Position

As noted previously, respondents' reliance on *British Steel PLC* v. *United States*, Slip Op. 95–17 (CIT February 9, 1995) is misplaced. British Steel is not a final decision of the CIT, and no decision has been made regarding whether any issue contained in that opinion should be appealed. Therefore, the Department is not bound by that opinion.

Furthermore, renewable physical assets are essential to the continuation of a company's productive activity, which in turn affects the commercial and competitive position of a company. Therefore, the Department has determined that the average useful life of renewable physical assests is an appropriate measure of the commercial and competitive benefits from non-recurring subsidies (see, GIA, at 37227).

Comment Three: Assumption of Losses

Respondents argue that the evidence on record does not support the Department's preliminary finding that VAAG's assumption of losses provided a countervailable subsidy to Kindberg. According to respondents, it was determined at verification that the losses which remained on VAAG's books after the restructuring were incurred by other units of Voest-Alpine. Respondents claim that "absent substantial evidence on the record attributing VAAG's losses to Kindberg,

the Department's final determination should not result in a net subsidy calculation for these fictive benefits."

According to petitioners, the Department was told at verification that the majority of the losses in question were incurred by divisions other than Kindberg, and that Kindberg's portion would therefore be small. Petitioners note that respondents were unable to document or even to determine the actual amount of the losses which were attributable to Kindberg. Petitioners further argue that, had any of VAAG's losses been allocated to Kindberg, the newly formed company would have required additional capital in order to avoid insolvency. They conclude that at least some of the losses assumed by VAAG may have been incurred by Kindberg and should, therefore, have been allocated to Kindberg. The assumption of those losses provided a countervailable subsidy to Kindberg.

DOC Position

We agree with petitioners. At verification, VAAG officials explained that the amount of VAAG's losses attributable to Kindberg is not determinable. While we did see evidence that substantial losses were incurred by other divisions of VAAG prior to the restructuring, it does not follow that no losses were created by Kindberg. Moreover, an excerpt from Kindberg's 1987 auditor's report notes that Kindberg incurred operating losses in the amounts of AS 781 million in 1985 and AS 289 million in 1986. Thus, the evidence on the record indicates that Kindberg incurred losses prior to 1987.

Comment Four: 1987 Equityworthiness of Kindberg

Respondents assert that the Department should not rely solely on the past financial performance of VAAG in determining whether Kindberg was equityworthy in 1987. The Department's determination should take into consideration Kindberg's expected future performance—as outlined in the VA Neu study, the FGG reports, and Kindberg's operating forecasts. Respondents claim that these sources all predicted profitability within three years of the date of incorporation.

Furthermore, respondents argue that the company's performance both prior to and after its effective incorporation date should be considered. With respect to Kindberg's actual performance, respondents note that as early as the third quarter of 1987, Kindberg's performance showed marked improvement over 1986. Therefore, even before Kindberg's equity infusion was provided, future financial prospects for the firm had improved significantly. Moreover, they state that Kindberg's performance continued to improve during 1988 and 1989 and that by 1990, Kindberg was operating at a profit. They contend that at the time of the equity infusion, a reasonable private investor would have recognized that Kindberg was capable of generating a sizable return on investment in a reasonable amount of time.

Petitioners claim that the Department's stated policy in the *GIA* is to place greater reliance on past indicators than on studies of future expected performance. The starting point of the Department's analysis, therefore, should be a review of VAAG's past performance—which would lead to a finding that Kindberg was unequityworthy in 1987.

With respect to the VA Neu Study, petitioners argue that the information is inadequate to establish whether Kindberg was equityworthy. They argue that the Department cannot properly analyze the study because respondents only submitted excerpts containing general discussions of possible cost savings.

Additionally, petitioners assert that Kindberg's predicted profitability does not establish that the company would generate a reasonable rate of return within a reasonable time—particularly in light of the substantial losses that Kindberg was expected to incur prior to achieving profitability.

Finally, petitioners stress that the Department does not consider the actual performance of the company subsequent to the receipt of an equity infusion. Kindberg's actual performance after 1987 is irrelevant for purposes of an equityworthiness determination because such information would not have been available to a private investor at that time.

DOC Position

We agree with respondents that the Department should not rely solely on the past financial performance of VAAG to determine whether the 1987 equity infusion in Kindberg was consistent with commercial considerations. As stated in the *GIA*, as 37244, in circumstances such as a restructuring it may be appropriate to place greater weight on certain factors (such as future prospects), than others (past performance). Hence, the Department has examined closely the expected results of the restructuring for Kindberg. At the same time, we reaffirm our earlier conclusion as to VAAG's performance.

We also disagree with petitioners that the information provided by respondents regarding future prospects is inadequate. While the VA Neu study by itself might not be sufficient, largely because it was internally generated and because it was undertaken for different purposes, we have not relied solely on that study. In addition, we have relied on the estimates provided in conjunction with the FGG's "oversight" activities in the restructuring. Although the FGG is part of the Austrian Finance Ministry, there is no indication that it did not operate independently in its assessments of the restructuring process.

We do, however, agree with petitioners that these forecasts do not provide a basis for concluding that the GOA would receive a reasonable return within a reasonable amount of time. Heavy losses were predicted for the early years and the best year showed only that the company would break even (or possibly return a small profit). Although these estimates showed a trend toward profitability, they also showed a negative net return over the time horizon they covered.

We also agree with petitioners that Kindberg's actual performance after the equity infusion is irrelevant to this determination. Our examination focuses on what the investor could have expected to receive at the time the investment was made.

Comment Five: Amount of the 1987 Equity Infusion

Petitioners argue that the Department should find the total amount of equity received by Kindberg in 1987 (*i.e.*, both the direct infusion from ÖIAG and the initial equity contribution by VAAG) to be a countervailable subsidy.

DOC Position

The equity on Kindberg's opening balance sheet for 1987 was composed of initial start-up capital provided by VAAG, an increase in VAAG's equity position due to a revaluation of the assets contributed by VAAG to Kindberg, and the 1987 equity infusion by ÖIAG. VAAG was later reimbursed by ÖIAG for its initial equity contribution.

In Certain Steel, the Department concluded that VAAG's contributions of equity capital to its newly formed subsidiaries in 1987 did not constitute countervailable equity infusions. Rather, VAAG merely distributed its pre-existing assets and liabilities to its subsidiaries. Because the method used to allocate assets and liabilities to the new subsidiaries was reasonable, the Department found that no countervailable benefit was conferred in this action. The initial equity received by Kindberg was part of that

redistribution of VAAG's assets. Therefore, consistent with Certain Steel, we have found that the assets provided by VAAG to Kindberg are not a subsidy. However, as discussed above, the losses retained by VAAG did give rise to a subsidy to Kindberg.

Comment Six: Bayou Steel Corporation ("BSC")

Respondents assert that the Department should not countervail the equity infusions and grants received by VAAG in 1983 and 1984 because these funds were used to cover losses incurred by BSC in the United States. Moreover, because BSC was sold in 1986, Kindberg cannot be receiving any benefits from those funds.

Petitioners argue that in Certain Steel, the Department found that the funds in question were provided to cover VAAG's worldwide losses, including those associated with Bayou Steel. Therefore, the subsidies are attributable to all of VAAG, including Kindberg.

DOC Position

We agree with petitioner. In Certain Steel, we determined that these funds were provided to cover VAAG's worldwide losses. Respondents have not provided information that these funds were intended solely to benefit BSC (see GIA, at 37236). With respect to the sale of BSC, we have applied the spin off methodology applied in the Certain Steel cases. A portion of the subsidies received by VAAG would have been allocated to BSC at the time of its sale, but the payment VAAG received for BSC was sufficiently large that all of the subsidies reverted to VAAG. Hence, these subsidies continue to be, in part, attributable to Kindberg.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, and examination of relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B-099 of the Main Commerce Building).

Suspension of Liquidation

In accordance with our affirmative preliminary determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of OCTG from Austria, which were entered or withdrawn from warehouse for consumption, on or after January 24, 1995, the date our preliminary determination was published in the **Federal Register**.

Under Article 5, paragraph 3 of the GATT Subsidies Code, provisional measures cannot be imposed for more than 120 days without final affirmative determinations of subsidization and injury. Therefore, we instructed the U.S. Customs Service to discontinue suspension of liquidation on the subject merchandise beginning May 24, 1995, but to continue suspension of liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise entered from January 24 through May 23, 1995. We will reinstate suspension of liquidation under section 703(d) of the Act, if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amount indicated below.

OCTG

Country-Wide *Ad Valorem Rate:* 11.44 percent

ITC Notification

In accordance with section 705(c) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, these proceedings will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order directing Customs officers to assess countervailing duties on OCTG from Austria.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act and 19 CFR 355.20(a)(4).

Dated: June 19, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-15762 Filed 6-27-95; 8:45 am]

BILLING CODE 3510-DS-P

[A-357-810]

Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 1995.

FOR FURTHER INFORMATION CONTACT: John Beck or Jennifer Stagner, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3646 or (202) 482-1673, respectively.

Final Determination

The Department of Commerce (the Department) determines that oil country tubular goods (OCTG) from Argentina are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the Suspension of Liquidation section of this notice.

Case History

Since the amended preliminary determination on March 6, 1995 (60 FR 13119, March 10, 1995), the following events have occurred.

In March and April 1995, the Department verified the cost and sales questionnaire responses of Siderca S.A.I.C. and Siderca Corp. (collectively Siderca). Verification reports were issued in May 1995. On May 10 and 17, 1995, the interested parties submitted case and rebuttal briefs, respectively. On May 18, 1995, a public hearing was held. On May 23, 1995, Siderca submitted a revised sales tape pursuant to the Department's request correcting for minor errors discovered at verification.

Scope of the Investigation

For purposes of this investigation, OCTG are hollow steel products of circular cross-section, including oil well

casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

After the publication of the preliminary determination, we were informed by Customs that HTSUS item numbers 7304.20.10.00, 7304.20.20.00, 7304.20.30.00, 7304.20.40.00, 7304.20.50.10, 7304.20.50.50, 7304.20.60.10, 7304.20.60.50, and 7304.20.80.00 were no longer valid HTSUS item numbers. This was confirmed by examination both of the Customs module and the published 1995 HTSUS tariff schedule. Accordingly, these numbers have been deleted from the scope of this investigation.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1994, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Such or Similar Comparisons

We have determined for purposes of the final determination that the OCTG covered by this investigation comprises a single category of "such or similar" merchandise within the meaning of section 771(16) of the Act. Where there were no sales of identical merchandise in the third country [1] to compare to U.S. sales, we made similar merchandise comparisons on the basis of the product characteristics listed in Appendix V of the Department's antidumping questionnaire, as modified and discussed in the preliminary determination. In two instances, the revised product concordance submitted by Siderca did not follow exactly the product comparisons made in the preliminary determination. We have corrected the product concordance for these instances (see Comment 5 in the "Interested Party Comments" section of this notice).

We made adjustments, where appropriate, for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

Fair Value Comparisons

To determine whether Siderca's sales of OCTG from Argentina to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We calculated USP according to the methodology described in our preliminary determination, with the following exceptions:

1. For the cost of production (COP) of the merchandise that was further manufactured in the United States, we included in the cost of manufacture (COM) the research and development (R&D) expense excluded by respondent and computed general and administrative (G&A) expense on an annual basis from Siderca's March 31, 1994, income statement.

2. We applied the net financial expense of the consolidated parent to the further manufacturing costs of the related further manufacturer.

3. We made deductions from gross unit price for movement variances that represent the difference between the accrual and actual movement costs.

4. We recalculated inventory carrying cost to use the interest rate of the entity during the time period when that entity holds title to the goods. That is, we used the Argentine interest rate during the period from production to Siderca S.A.I.C.'s transfer of title to Siderca Corp. and the U.S. interest rate during the period the merchandise is held by Siderca Corp.

In order to calculate credit expenses for certain sales which had either not yet been shipped or paid for, we followed the methodology used in our preliminary determination and assigned the average number of credit days when shipment and payment dates were missing, but now used the date of the final determination, June 19, 1995, as the assumed payment date when only payment dates were missing.

Foreign Market Value

As stated in the preliminary determination, we found that the home market was not viable for sales of OCTG and based FMV on sales to the People's Republic of China (PRC). During the course of this investigation, the petitioners questioned the legitimacy of certain sales made by Siderca to the Chinese market. The Department closely examined these sales at verification and found no reason to alter its determination that PRC sales are the appropriate basis for FMV (see Comment 1 in the "Interested Party Comments" section of this notice).

Cost of Production Analysis

As we indicated in our preliminary determination, the Department initiated an investigation to determine whether Siderca's sales in the PRC were made below their COP. We calculated the COP according to the methodology described in our preliminary determination, with the following exceptions:

1. We included in the COM the R&D expense excluded by Siderca.

2. We computed G&A expense on an annual basis from Siderca's March 31, 1994, income statement.

3. We excluded duties from the COP since the price to which COP was compared was also exclusive of duties.

After computing COP, we compared product-specific COP net of direct and indirect selling expenses to reported third-country prices that were net of movement charges and direct and indirect selling expenses.

[1] The home market in this case is not viable. Sales to the People's Republic of China (PRC) are being used as the basis for the FMV and COP analysis.

Results of COP Analysis

In accordance with section 773(b) of the Act, we followed our standard methodology as described in the preliminary determination to determine whether the third country sales of each product were made at prices below their COP. Based on this methodology, none of Siderca's PRC sales were found to be below cost. Accordingly, we calculated FMV according to the methodology described in our preliminary determination, with the following exceptions:

1. We recalculated credit using the U.S. interest rate since all third country sales were denominated in U.S. dollars.

2. We made a circumstance-of-sale adjustment to FMV to account for the difference in the average effective reintegro (rebate) rate included in the U.S. price (see Comment 6 in the "Interested Party Comments" section of this notice).

In order to calculate credit expenses for unshipped or unpaid Chinese sales, we applied the same methodology described above for USP.

Currency Conversion

Because certified exchange rates for Argentina were unavailable from the Federal Reserve, we made currency conversions for expenses denominated in Argentine pesos based on the official monthly exchange rates in effect on the dates of the U.S. sales as published by the International Monetary Fund in accordance with 19 CFR 353.60(a).

Verification

As provided in section 776(b) of the Act, we verified the information used in making our final determination.

Interested Party Comments

Comment 1: Third Country Sales

The petitioners argue that information obtained from Siderca reveals that the date of sale of many of Siderca's third-country sales falls outside the POI, making the home market viable. The petitioners state that Siderca did not adhere to the Department's definition of date of sale for the majority of its third-country sales. They argue that Siderca's refusal to produce written agreements with a certain Chinese customer or price lists pursuant to those agreements leads one to conclude that there were two binding contracts between Siderca and the Chinese customer, one inside the POI and one outside the POI. The petitioners argue that the shipments pursuant to both of those agreements should be excluded from the Department's viability analysis.

Regarding the first agreement, the petitioners argue that the price and quantity were agreed to before the POI, in accordance with the terms specified in Siderca's 1991 Framework Agreement with its customer. Therefore, the POI shipments should be associated with pre-POI sales and excluded from the Department's analysis.

The petitioners argue that Siderca's contention that the 1991 Framework Agreement resulted only in periodic "general agreements" on quantity and on "general price levels" is an attempt to discount the authority of the 1991 Framework Agreement. They state that nothing in the 1991 Framework Agreement makes any mention of Siderca's claim that the general agreements entered into periodically with the customer were not final. Furthermore, the petitioners state that changes in some sales terms, as mentioned by Siderca to support its claim that the general agreements were not final sales agreements, do not invalidate the parties' intent to establish definite sales terms in the general agreements for the rest of the merchandise.

The petitioners further state that in the Final Determination of Sales at Less Than Fair Value: Steel Bar from India (59 FR 66915, December 28, 1994), the Department found that shipments under a sale agreement were a valid sale as of the date of the agreement, even though the sale was subsequently cancelled. The petitioners argue that if the cancellation of a contract does not alter the date of sale with regard to other merchandise covered by the contract, then ordering a new product does not alter the date of sale, at least for all other types of merchandise, evidenced by the general agreements in question. Therefore, the periodic agreements must be considered actual sales agreements.

As a result, the petitioners maintain that only the second agreement with the Chinese customer was entered into during the POI. However, the petitioners argue that the shipments pursuant to this second agreement should also be excluded from the Department's viability analysis because the terms of delivery for the total tonnage ordered were not met by Siderca, and the quantity shipped is not even close to the shipment terms agreed to by the parties. The petitioners state that the delivery term was an essential term of the agreement and was changed; therefore, the Department must exclude these sales from its viability analysis. Alternatively, if the Department does not exclude all the sales pursuant to this agreement, it must, at a minimum, exclude the merchandise where shipment was not even close to the shipment term agreed to by the parties. Additionally, the petitioners contend that the merchandise that remained unordered under the second agreement should also not be considered as POI sales and should be excluded from the viability analysis.

Regarding a non-Chinese third country sale, the petitioners state that the documentation placed on the record demonstrates that the correct date of sale is outside the POI, since the documentation references a sales acknowledgement dated outside the POI. Therefore, the Department must also exclude this sale from its viability analysis.

Finally, the petitioners argue that because a proper analysis of third country sales results in a viable home market, the Department must base its determination on the best information available, which in this case is the information contained in the petition.

Siderca states that to determine the date of sale, the Department relies on the first written memorialization of the sales agreement setting forth the essential contract terms. Siderca argues that there were no written agreements with the Chinese customer pursuant to the periodic negotiations and that there is nothing in the record to support the petitioners' claims that written agreements or price lists pursuant to the periodic negotiations exist.

Siderca states that it holds periodic negotiations with its customer regarding sales of OCTG, pursuant to the 1991 Framework Agreement, which end with a general agreement on the tonnage to be purchased during the next six months, and on general price levels. However, the product mix is not specified in these agreements, nor is there any firm commitment to purchase the total quantity. Sometimes the customer orders the total quantity discussed in the negotiations, sometimes it does not. Siderca states that production does not begin until the contracts pursuant to the general agreements are signed. It further states that it reported all contracts which were signed by both parties during the POI as POI sales.

Siderca argues that its sales process was fully verified by the Department. Siderca states that information was provided on the record which supports Siderca's treatment of the contract date as the date of sale, such as an internal document requesting guidance on the price to offer a certain customer during the POI. Siderca further states that the verification showed that it was consistent in its approach to the date of sale; for example, not treating as POI sales those shipments during the POI

that were pursuant to a contract signed before the POI.

Sideca further argues that there is evidence on the record which proves that the periodic negotiations with the Chinese customer do not end in a formal commitment to buy or sell. This is evidenced by a purchase order showing no terms for a particular product and also by the fact that, while the second agreement listed a certain quantity, only a portion of that quantity was actually ordered and shipped.

Sideca contends that the record supports its position that the specific terms of sale are established when the customer's purchase order is received. It notes that the original contracts were examined at the verification.

Regarding the merchandise that was shipped after the delivery date stipulated in the contract, Sideca argues that the delivery date influenced the timing of the negotiations and the timing of the contract signing. Sideca contends that the customer wanted shipment by a particular month but then experienced logistical problems and arranged for subsequent delivery. It states that the parties did not change the merchandise, price, quantity or other material terms of the contract. It also states that the petitioners could cite no cases where this type of modification had been interpreted as changing the date of sale.

Sideca then addresses the petitioners' argument that, at a minimum, the Department should exclude the merchandise where the shipment terms were not even close to those agreed to by the parties. Sideca argues that the petitioners provided no precedent to support their theory that these sales do not constitute sales during the POI. It argues that a delivery term is only a material term if the parties treat it as one and that the evidence on the record shows that all merchandise was eventually shipped.

Next, Sideca addresses the petitioners' argument that the merchandise that remained unordered under the second agreement should also not be considered as POI sales and excluded from the viability analysis. Sideca states that this merchandise was never ordered because it was never sold. Therefore, it does not need to be excluded from the viability analysis because it was never included.

Finally, Sideca addresses the petitioners' argument that the documentation placed on the record demonstrates that the correct date of sale for a non-Chinese third country sale is outside the POI, since the documentation references a sales acknowledgement dated outside the POI. It argues that the sales acknowledgement was only an "observation/clarification" of the customer's purchase order and that the record does not show any change or modification in the material terms.

DOC Position

We agree with Sideca. This issue was argued extensively by the parties and examined very closely by the Department at the verification. At verification, we found no evidence of written price agreements or price lists pursuant to the periodic negotiations which might result in certain reported sales being outside the POI. A review of the 1991 Framework Agreement also showed no basis to discount Sideca's claim that the periodic agreements with the Chinese customer were only "general agreements" where terms were not finalized. Thus, the 1991 Framework Agreement was akin to a memorandum of understanding between the parties, setting forth no definite material contract terms. It is clear from information on the record that the purchase order sets the price and quantity of the sale. Therefore, respondent's reporting of the purchase order date as the date of sale was consistent, and in accordance, with the Department's practice (see, e.g., Final Determination of Sales at Less than Fair Value: Certain Forged Steel Crankshafts from the United Kingdom (52 FR 18992, July 28, 1987).

Furthermore, changes in the delivery term of the contract at the end of the POI do not constitute changes to a term of the contract significant enough to alter the date of sale, unlike terms such as price and quantity. This is evidenced by the fact that the parties themselves did not treat the delivery term as a material one. Moreover, the petitioners could show no cases to support the opposite conclusion. Therefore, these sales were also properly within the POI.

Regarding the petitioners' argument that the merchandise that remained unordered under the second agreement should also not be considered as POI sales and should be excluded from the viability analysis, this merchandise was never sold nor reported; therefore, this issue is moot.

Regarding the petitioners' argument that the documentation placed on the record demonstrates that the correct date of sale for a non-Chinese sale is outside the POI, the acknowledgement in question references no change in the material contract terms. Furthermore, even if the petitioners' argument was correct, excluding this sale alone would not change the viability analysis.

Accordingly, the use of best information available, as suggested by the petitioners, is not warranted. We will use all PRC sales as reported by Sideca in our analysis.

Comment 2: Related Customer Allegation

The petitioners argue that Sideca and a certain Chinese customer are related parties and, therefore, the sales to the Chinese customer must be excluded from the Department's analysis. They state that the Department's questionnaire specifies that companies are considered related when one or more of the same individuals are members of the board of directors of both companies or other entities which control those companies. The petitioners also argue that in the Final Results of Administrative Review: Roller Chain, Other than Bicycle, from Japan (57 FR 56319, November 27, 1992) (Roller Chain), the Department found that two companies were related when they shared one director on each board. Thus, the petitioners contend that shared board members and officers have long been equated with common control of companies.

The petitioners state that when different individuals sit on the boards of two different companies, but serve as representatives of a common corporation, it results in interlocking directors which may violate section 8 of the Clayton Act, instituted to prevent a restraint of trade from being effected. The petitioners state that this is the situation that exists between Sideca and the Chinese customer through the management of several companies. They claim that Sideca failed to rebut the documentary evidence of relatedness placed on the record by the petitioners.

The petitioners contend that the ownership of Sideca is closely tied to that of many other companies, through Sideca's parent companies. They then argue that information on the record demonstrates shared management between Sideca and the Chinese customer. The petitioners note that all evidence they placed on the record to show the interrelationship between the management of these companies are certified copies of extracts from commercial registers. The petitioners then state that Sideca's attempts to rebut this evidence at verification are inadequate for the following reasons.

First, the petitioners discuss Sideca's attempt to obtain ownership information from the Chinese customer. They argue that Sideca has shared management with the Chinese customer and, therefore, it could have done more to obtain information from this

customer than just to send the customer a letter.

Second, the petitioners discuss Siderca's explanation of its alleged connection with the representative of the Chinese customer. They question Siderca's characterization of the president of Siderca's ultimate parent as only serving as local agent of the representative of the Chinese customer. The petitioners also claim that, under Swiss law, which applies to the representative of the Chinese customer, persons authorized to represent a company have the right to carry out all acts that may be covered by the company's aims. In addition, the petitioners claim that Siderca's explanation for the common board member between the Chinese customer and its representative fails to rebut the presumption of a relationship.

Third, the petitioners discuss Siderca's explanation of the alleged relationship with the local Argentine office of its Chinese customer. They argue that Siderca's characterization of a legal representative as that of an employee with no powers of a director or officer of the company is incorrect. The petitioners contend that, under Argentine law, persons authorized to represent a company are "obliged to it for all the acts that are not manifestly outside the company's objectives." Furthermore, the petitioners argue that the self-serving oral explanations at verification are not sufficient to rebut the documentary evidence provided by the petitioners.

Fourth, the petitioners discuss the charts provided by Siderca to illustrate its relationships with other companies. The petitioners contend that these charts are inadequate to rebut the claim of relatedness between Siderca and the Chinese customer because the charts are incomplete and have no supporting documentation.

The petitioners conclude that the Department must exclude Siderca's sales to this particular Chinese customer from its analysis because they were made to a related party and because Siderca has made no effort to prove that the sales to this customer were at arm's length.

Siderca argues that the petitioners' argument is results-oriented and that the Department should follow established standards for determining whether parties are related. Moreover, the fact that the sales to the customer in question are similar to U.S. sales makes the Chinese market a better comparison market than those where Siderca did not sell similar merchandise (*i.e.*, plain end OCTG).

Siderca argues that the Tariff Act of 1930, as amended (19 U.S.C. 1677(13)), focuses on either some financial relationship through stock ownership or otherwise, or the exercise of some control over the other business, to show relatedness. Siderca maintains that neither it nor its related commissionaire own or control the Chinese customer and are, therefore, not related to that customer.

Siderca maintains that the verification documents support the following conclusions. First, there is no corporate relationship between the Chinese customer and its representative, which the Chinese customer uses for certain corporate services, such as the collection of mail. Second, there is no corporate relationship between the customer and Siderca, either by ownership or control. Third, the only information that links Siderca and its Chinese customer is a good relationship that is not uncommon between a supplier and a client. Siderca states that it is because of this good relationship that the customer approached an officer of one of Siderca's related parties for advice on setting up a subsidiary in another country. Siderca maintains that this individual agreed to have his name placed on the incorporation documents as an attorney-in-fact. As a result, Siderca states that its related company and this customer each had a subsidiary in the same country with the same individual involved in both. In addition, Siderca argues that its related company and its customer appointed some of the same citizens to serve as corporate directors in fulfillment of local law requirements regarding the citizenship and residency of corporate directors.

Fourth, the Chinese customer expanded its activities in Argentina by opening a branch there, and hired an employee to serve as its local representative. This employee was not involved at any time in the ownership or management of the Chinese customer, and was never employed at the same time by the Chinese customer and Siderca's related companies. Siderca argues that this person switched jobs to one of Siderca's related companies, and recommended another person to wind down the operations of the Argentine branch of the Chinese customer. This other person was a retired employee of one of Siderca's related parties, who was allowed to use one of the office buildings belonging to the organization.

Siderca concludes from the above-cited evidence that there is no evidence of corporate control, through stock ownership, common management, or otherwise.

Siderca then states that the Department's questionnaire never mentions the term "shared management," even though the petitioners use this term to define related parties. It also states that Roller Chain says nothing about "shared management" and refers to individuals on multiple boards being one of the indicia of control, not control in and of itself. Siderca argues that Roller Chain based relatedness by control on many factors, including financial relationship and the sharing of two of five board members. It states that the Department mentioned common board members as "further evidence that the potential to control was present" and this was not the only or major reason for its decision. Siderca also argues that modern corporate boards are routinely comprised of individuals who sit on boards of other unrelated companies. It says that this does not make the companies related.

Siderca concludes that the petitioners' relationship allegations do not satisfy a balanced statement of the applicable statutory provision, nor even the "shared management control" standard that the petitioners, themselves, have invented. It states that the petitioners have shown no ownership, financial dealings, coordinated management or cross investments.

DOC Position

We agree with Siderca. To determine whether Siderca's customer is related to Siderca, we examined whether the definition of "exporter" was met by the customer within the meaning of section 771(13) of the Act. First, regarding the petitioners' argument that since Siderca has shared management with the Chinese customer, Siderca could have done more to obtain information than simply to send a letter, we note that, as stated below, no shared management between these parties has been demonstrated by the record evidence.

Second, regarding the petitioners' claim that under Swiss law, persons authorized to represent a company have the right to carry out all acts that may be covered by the company's aims, we acknowledge that, under Swiss law, a representative acts in the same capacity as a board member. However, with regard to the president of the ultimate parent of Siderca, this only shows that the Siderca's parent company and the customer's agent had a common board member. As shown below, this is not enough to establish control of Siderca over the Chinese customer.

Regarding the other individuals listed by the petitioners as showing a relationship between Siderca and its

customer, only one has conclusively been shown to be on the board of a company related to Siderca through its parent companies and also on the board of a subsidiary of Siderca's customer. All other individuals characterized by the petitioners to be common board members have what is known as a "power of attorney." We found no evidence that under Swiss law, the "power of attorney" capacity equates with being a member of a board of directors.

Few past cases address the issue of indirect control. In Roller Chain, cited by the petitioners, the Department found that a company was related to its customer within the meaning of 771(13) of the Act, noting that since two company officials were members of the customer's board of directors and that the company in question provided a majority (60%) of the capital used to establish the customer. Thus, in Roller Chain, it was the significant financial connection, coupled with the two common board members, that provided the basis for the Department's determination of relatedness. In this case, there is only one common board member and no proof of outlay of capital to establish the customer. Therefore, the circumstances present in this case are not analogous to those found by the Department in Roller Chain. Furthermore, there is no proof of any stock ownership between the companies.

Third, with regard to the alleged relationship between Siderca and the local Argentine office of its Chinese customer, the Department acknowledges that, under Argentine law, persons authorized to represent a company are "obliged to it for all the acts that are not manifestly outside the company's objectives." However, the employee in question was never employed at the same time by the Chinese customer and Siderca's related companies.

Also, the other person mentioned by the petitioners was characterized by Siderca as having been hired to wind down the operations of the Argentine branch of the Chinese customer. This other person was also characterized as a retired employee of one of Siderca's related parties, who was allowed to use one of the office buildings belonging to the organization. We note for the record that the Department was informed at verification that this person was not completely retired from one of Siderca's related parties but was still on the payroll as a consultant when he was hired by the Argentine branch of the Chinese customer. However, even if he was on Siderca's payroll as a consultant at the same time he was winding down the operations of the Argentine branch of the Chinese customer, this employee/consultant capacity is not the same thing as board membership or management and is not enough to establish control.

Fourth, regarding the petitioners' contention that the charts provided by Siderca to illustrate its relationships with other companies are inadequate to rebut the claim of relatedness, at the verification the team also examined the corporate books that listed the management of these companies. Nothing to discredit Siderca's claims was found.

Finally, we also note that the petitioners have shown, and we have found, no ownership between the parties.

In sum, the record evidence does not demonstrate that the Chinese customer and Siderca are related companies within the meaning of section 771(13) of the Act.

Comment 3: Ordinary Course of Trade

The petitioners state that section 773(a)(1)(A) of the Act requires that FMV of imported merchandise be based on sales made in the ordinary course of trade. According to the petitioners, the U.S. Court of International Trade noted that the ordinary course of trade requirement is meant to "prevent dumping margins which are not representative" of sales in the home market *(Cemex, S.A. v. United States,* Slip. Op. 95–72 at 6, April 24, 1995). The petitioners contend that, in the past, the Department has considered the following factors to determine whether sales were made in the ordinary course of trade.

First, the petitioners discuss the channels of sale. The petitioners argue that since the Chinese customer was not located in China, used the services of another company not located in China, and had intertwined control with Siderca, the sales to this customer are not representative of Siderca's sales practices in China.

Second, the petitioners discuss product uses. The petitioners argue that the products sold by Siderca to this Chinese customer had different characteristics from Siderca's other sales of OCTG to the Chinese market and therefore were not in the ordinary course of trade. The petitioners cite the Final Results of Administrative Review: Certain Welded Carbon Steel Standard Pipes and Tubes from India (57 FR 54360, November 18, 1992) (Standard Pipes) to show a case where products with different physical characteristics were excluded as being outside the ordinary course of trade.

Third, the petitioners discuss the frequency and volume of sales. The petitioners argue that the frequency and volume of sales to this particular Chinese customer, when compared to the frequency and volume of sales to another customer, and when considering the other factors mentioned by the petitioners, demonstrates that these sales were not in the ordinary course of trade.

Fourth, the petitioners discuss the shipping arrangements. The petitioners contend that the difference in the average time between order and shipment for the sales to this particular customer, when compared to the other reported Chinese sales, is evidence that these sales are not in the ordinary course of trade.

Finally, the petitioners state that Siderca's characterization of its relationship with the Chinese customer is not one of an ordinary business relationship, even a "friendly" one, between a producer and a buyer. The petitioners argue that in the ordinary course of trade producers do not lend the services of their officers to set up subsidiary companies for their buyers and serve as attorneys in fact for the resulting subsidiaries.

Siderca argues that petitioners' points fail to show that this sale is outside the ordinary course of trade. First, regarding the channels of sale, Siderca contends that there is no abnormality in the customer not being located in China, as it is a trading company. Siderca asserts that trading companies rarely take delivery in the country where they do business. Siderca states that this particular customer purchased OCTG for other markets during the POI as well. Siderca argues that the use of trading companies is a normal practice in the steel trade.

Second, regarding product uses, Siderca states that, while the merchandise to this customer did have different, albeit not abnormal, physical characteristics than the other merchandise sold to this market, it did have the same end use. Siderca states that the trading company's customer in China simply did not need, or could not use, the type of product Siderca sold to the other Chinese customers. Siderca argues that the Department only excludes sales as outside the ordinary course of trade where the product use is very dissimilar. Siderca states that in Standard Pipes, the Department found that the physical differences had a direct bearing on use.

Third, regarding the frequency and volume of sales, Siderca argues that these sales cannot be considered aberrant. Siderca states that the sales to

this particular customer are similar in size and frequency to the sales to another Chinese customer, to which the petitioners do not object. Therefore, Siderca states that the sales to the customer in question were consistent with other sales in the Chinese market.

Fourth, regarding the shipping arrangements, Siderca states that in examining shipping arrangements for the purpose of an ordinary course of trade determination, the Department examines factors such as shipments over substantial distances, the unusual absorption of high freight costs or a complete change in shipping terms, none of which is relevant to the customer in question. Furthermore, Siderca notes that shipment was made within the period stipulated in the purchase order.

DOC Position

We agree with Siderca. In making the determination whether sales should be excluded by being outside the ordinary course of trade within the meaning of section 773 of the Act and section 353.46 of the Department's regulations, the Department examines several factors (see the Final Determinations of Sales at Less than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Corrosion-Resistant Carbon Steel Flat Products from Japan (58 FR 37154, July 9, 1993).

Regarding channels of sale, there is nothing unusual with selling to a trading company located in a third country. As noted by Siderca, we consider these sales to be Chinese sales because Siderca knew the ultimate destination of the merchandise. Regarding product uses, the petitioners, although showing that the products sold to different customers in China had certain different physical characteristics, in no way proved, and we did not find, that the products had different end uses.

Regarding the frequency and volume of sales, since the frequency and volume of sales to the customer in question were similar to that of another Chinese customer, we don't find that there is an abnormality. Regarding the shipping arrangements, differences in average time between order and shipment alone is not evidence that the sales were outside the ordinary course of trade. No cases were cited by the petitioners, nor found by us, to support this position and the shipments were made within the period stipulated in the purchase order. Therefore, the Department finds that these sales are not outside the ordinary course of trade within the meaning of section 773(a)(1)(A) of the Act.

Comment 4: Home Market Sales

The petitioners contend that certain home market sales reported as being made prior to the POI were actually made during the POI. According to the petitioners, the prices for Siderca's sales to a specific home market customer do not correspond with the prices listed in the sales agreement with this customer. Since the prices do not match, the petitioners contend that these sales were made during the POI and not pursuant to the pre-POI sales agreement. The petitioners claim that adding the home market sales to this particular customer in the viability analysis would make the home market viable.

Siderca argues that the petitioners are wrong in claiming that the prices for Siderca's sales to a specific home market customer do not correspond with the prices listed in the sales agreement with this customer. Siderca states that the petitioners did not take into consideration an article in the contract that explained a large part of the discrepancy. Siderca also states that minor calculation errors were made by the petitioners due to poor copy quality of the contract. Siderca argues that correcting for these errors results in the price charged being the same as the price agreed upon in the contract.

Siderca claims that it correctly reported the home market sales during the POI. It states that information was provided which supported its position that: (1) Exporting to world-wide markets has dominated Siderca's sales in each six month interval; (2) short-term sales were the norm in the 18 month period from January 1, 1993 to June 30, 1994; (3) the POI, with private end-user clients, was representative of the post-privatization market that was the context for Siderca's home market sales practices during the 18 month period; (4) there was no sale *pursuant* to a long-term contract in the POI; and (5) Siderca's home market sales practices prior to 1993 reflected a different era, characterized by a single, state-owned oil and gas monopoly.

Siderca states that its definition of the date of sale and the Department's preliminary determination that the home market was not viable during the POI was supported by the evidence presented at verification. It states that the Department reviewed the long-term contracts in detail, including a complete list of the purchase orders associated with a given contract and, for selected purchase orders, the shipments made against the order. Siderca states that the Department also verified the actual volume and value of Siderca's home market sales and no discrepancies were found.

DOC Position

We agree with Siderca. At the public hearing, the petitioners conceded that their argument was based on an incomplete reading of the contract (namely, failure to take into account an article in the contract), as well as an illegible copy of the contract. Therefore, there was no price discrepancy. Furthermore, we examined the home market sales process (especially price and quantity terms in the purchase orders pursuant to the long-term contracts) in detail at the verification and no discrepancies were found. Therefore, the record continues to show that the home market is not viable.

Comment 5: Model Match

The petitioners argue that the Department should rely on its own product matching decisions outlined in a January 24, 1995, product matching memorandum and used in the preliminary determination instead of Siderca's proposed model matches.

Siderca argues that a certain Chinese product, although more similar to the U.S. products based on a strict application of the Department's model-matching methodology, is not the most similar overall based on physical characteristics, production and commercial value. Siderca states that while the two third country selections are nearly equally dissimilar to the U.S. products based on a higher-ranking characteristic, its match is more similar based on lower-ranking characteristics, which should be taken into consideration.

Siderca argues that there is nothing that prevents the Department from adapting the hierarchy to a particular set of facts, especially where there is a clear reason to modify the approach and the statutory definition of similar merchandise warrants the modification. Siderca contends that in the past the Department has deviated from the published hierarchy when the respondent has demonstrated that it is necessary to achieve the proper comparison.

DOC Position

We agree with the petitioners. The matching of the U.S. products based on the January 24, 1995, memorandum, is consistent with the purpose of a matching hierarchy; i.e., more weight is given to higher-ranked characteristics and less weight to lower-ranked characteristics. Following a strict application of the matching hierarchy

also allows for more predictable results. Lower-ranked characteristics are taken into consideration only when higher-ranked characteristics are equal. This is not the case here.

Comment 6: Reintegro (Rebate)

The petitioners argue that the Department must deduct from the COP only that portion of the reintegro (a rebate upon export of indirect taxes imposed during production of the merchandise) attributable to material inputs. The petitioners note that current law does not address the issue of rebates such as the reintegro in COP situations. The petitioners argue that the statutory silence on the issue of indirect taxes relating to items other than materials indicates that such taxes should remain in the product's cost and, therefore, the full rebate should not be deducted from the COP. Both the Department's regulations (19 CFR 353.50(a)(1)) and section 773(e)(1)(A) of the Act provide that, when calculating constructed value, the cost of materials is to exclude internal taxes applied directly to the cost of such materials when the taxes are refunded upon exportation. The petitioners argue that under current law only the Department's practice of excluding value added taxes paid on raw material inputs offers guidance in the area of COP.

The petitioners also argue that the Department must average the market specific tax rebate so that only one cost of production is reported for each product. The petitioners maintain that the Department's long standing practice is that cost differences based on shipping destination should not enter into the company's cost of production for a particular product.

Siderca argues it properly reduced the actual cost of production by the average rebate received on sales to China. Siderca states that both final stage and prior stage indirect taxes appear in its records as costs and, therefore, the rebate of the tax must be applied as an offset to this cost. Siderca argues it presented to the Department the same indirect tax study it presents annually to the Argentine government to prove the amount of rebate it is entitled to under the reintegro program. Siderca notes the study was tested and reviewed during the cost verification and that Department personnel have reviewed the study on six previous occasions.

Siderca concedes the precise percentage of material cost accounted for by cumulative indirect taxes cannot be known, but argues that the study provides a reasonable estimate. Moreover, there is no double counting of the exclusion, because the total level of taxes paid exceeds the rebate. Further, the 1993 tax study, upon which the 1994 rebate was based, accurately reflects the amount of taxes paid while the tax was in effect during 1993. Siderca states that it presented support for the actual cash rebate received on sales to the U.S. and China.

Siderca maintains that its approach is consistent with the Department's practice of using actual costs, and cites to the Final Determination of Sales at Less Than Fair Value: Fresh Chilled Atlantic Salmon from Norway (58 FR 37915, July 14, 1993), where the Department stated its preference for the use of the actual cost of the subject merchandise, whenever possible. Siderca also cites Final Determination of Sales at Less Than Fair Value: Aramid Fiber Formed of Poly-phenylene Terephthalamide from the Netherlands (59 FR 23684, May 6, 1994) in which the Department treated government grants as an offset to the respondent's fixed overhead costs.

Siderca does not dispute that its methodology results in two different net costs, but argues that this is always the case when duties are rebated on export sales. Siderca states that the cost of the home market product is tax inclusive, and the cost of the export product is exclusive of the tax after export. Because the COP comparisons are based on sales to a specific market, the calculation should take into account only rebated taxes relevant to that market.

Finally, Siderca argues the effect of the differential should not be a source of double jeopardy. The differential exists because Siderca has foregone a portion of the rebate for exports to the United States in deference to the U.S. countervailing duty regime.

DOC Position

We agree with Siderca, in part. Regarding the issue of allowing only the portion of the reintegro attributable to material inputs, the Department's Offices of Countervailing Investigations and Countervailing Compliance normally test to determine whether or not the reintegro is countervailable (see, *e.g., American Alloys, Inc.* v. *United States*, 30 F.3d 1469 (Fed. Cir. 1994). To be non-countervailable, the rebate must be for taxes on merchandise which was physically incorporated into the exported product and the rebate must be no greater than the actual taxes imposed.

The last countervailing determination concerning OCTG from Argentina for which results have been published is the 1988–89 Countervailing Duty Administrative Review. In the preliminary results of that review, the Department determined that Siderca was entitled to the entire reintegro without incurring countervailing duties (56 FR 50855, October 9, 1991). This issue was not discussed and, therefore, was not changed, in the final results (56 FR 64493, December 10, 1991). The reimbursement percentage on OCTG was then raised in 1992. However, Siderca only accepts the pre-1992 rebate percentage on U.S. sales because the current U.S. countervailing duty order is still in place. Based on the fact that the Department has previously determined that Siderca was entitled to a rebate without incurring countervailing duties and because it currently accepts a lower rebate, it is reasonable to assume that the entire reintegro is attributable only to material inputs.

We agree with Siderca regarding the issue of averaging the market specific tax rebates so that only one cost of production is reported for each product. For the cost test, the Department noted that the cost of production is the cost of the product as sold in the third country. This cost is being compared to the third country price. Since Siderca receives the entire rebate on sales to the third country, the cost of the third country product should be lowered by the entire amount of the rebate received upon exportation of the product to the third country.

Therefore, for COP, we have made no changes from the preliminary determination and have deducted the full rebate percentage from the COP.

Although not mentioned by the interested parties, the impact of the reintegro in the context of the price-to-price comparisons must be addressed. Included in Siderca's manufacturing costs of OCTG are taxes paid to the Argentine government. Siderca received a rebate of these taxes upon exportation of the merchandise. However, the amount of the rebate claimed by Siderca for the two export markets was not identical. For sales to the PRC, Siderca chose to accept the entire rebate. For sales to the United States, Siderca chose to accept only a partial rebate. Because only a partial rebate is taken for U.S. sales, a portion of the tax imposed by the Argentine government remains in the U.S. price (the difference between the total rebate and the partial rebate taken). Because these rebates are directly related to the sales of the merchandise in the two markets, it is necessary to make a circumstance-of-sale adjustment to FMV to account for the different amount of taxes included in the Chinese and U.S. prices. This procedure is consistent with *Zenith*

Electronics v. *United States*, 988 F.2d 1573, 1581 (Fed. Cir. 1993).

In calculating dumping margins, the Department equalizes the effective tax rates in each market. Normally (where the home market sale is taxed, but the export sale to the United States is not taxed) this is accomplished by applying the home market tax rate to the U.S. price at the same point in the chain of commerce at which the home market tax is imposed. Here, where the pipe exported to the United States was taxed in excess of the tax on the pipe exported to China, the comparable procedure would be to subtract the differential from the price charged in the United States. Because the statute provides no mechanism for removing tax from the U.S. price, however, we achieved the necessary equivalence in tax rates by adding the difference between the effective rebate percentages claimed by Siderca between the two prices to the price of the pipe exported to China as a circumstance-of-sale adjustment, pursuant to section 773(a)(4)(B) of the Act and 19 CFR 353.56(a). This prevented Siderca's acceptance of a complete tax rebate on the sales to China, but only a partial export tax rebate on the sales to the United States from masking any tax-net dumping margin.

Comment 7: Revenues Earned on Sales of Secondary Pipe

The petitioners argue Siderca should not reduce the reported costs for the subject merchandise by revenues earned on sales of secondary pipe. The petitioners argue that Siderca is treating secondary pipe as a by-product, when it should be treated as a co-product. According to the petitioners, in *IPSCO Inc.* v. *United States* (*IPSCO*) (965 F.2d 1056, 1060–61 (Fed. Cir. 1992)) the Court of Appeals for the Federal Circuit upheld the Department's treatment of second quality pipe when the Department fully allocated costs evenly over output tons. The petitioners argue that the classification of secondary pipe as a co-product precludes Siderca's offset of costs by revenue from secondary pipe.

Siderca argues it properly offset the cost of production by the revenue earned on sales of secondary pipe. Siderca contends the secondary pipe in question is a by-product, not a co-product, and is pulled from the scrap pile when a particular customer periodically stops by to purchase material. It further contends by-products are defined as products that have a low sales value compared with the sales value of the main product. Siderca notes that revenue from the sale of these products account for a small percentage of its total revenue for the period. Siderca rebuts the petitioners' reliance on *IPSCO* by asserting that *IPSCO* concerned limited service pipe, not scrap pipe. It argues that if the Department treats the secondary pipe as a co-product, then it must increase the production quantity over which production costs have been allocated, thereby lowering the cost of all products.

DOC Position

We disagree with the petitioners that IPSCO applies in this case. IPSCO dealt with limited service merchandise, an OCTG product with a quality sufficient enough to allow its use in some drilling applications. We also note that during the relevant period in that case, IPSCO produced and sold limited service products in significant quantities. Although Siderca overstates its assertion that these pipes are scrap sales, this is not a product that could be used for normal pipe applications. In this case, the merchandise in question was purchased because of its form, not because of its ability to act as a conduit for fluids.

The distinction as to whether a joint product is a by-product or a co-product of the subject merchandise is important because the Department treats by-products and co-products differently in calculating the COP of the subject merchandise. Central to our determination as to whether a product is a by-product or a co-product of the subject merchandise is the determination of the "split-off" point, which is the point in the production process where the co-product becomes a separately identifiable product. All costs incurred up to and including the split-off point are considered common to producing all co-products. Accordingly, where the Department determines a product to be a co-product, common costs incurred up to and including the split-off point are allocated among all the co-products, with none allocated to by-products. Alternatively, where the Department determines a product to be a by-product, it allocates all common costs to the primary merchandise and subtracts the amount of the revenue from the sale of by-products from the total COM of the chief product (see, e.g., the Preliminary Determination of Sales at Less than Fair Value and Postponement of the Final Determination: Sebacic Acid from the People's Republic of China (Sebacic Acid) (59 FR 565 (January 5, 1994)).

The most important factor in determining whether a product is a co-product or a by-product is its relative sales value compared with that of the other main products produced in the joint processes (see Sebacic Acid). By-products are defined as "products of joint processes that have minor sales value as compared with that of the chief product" by Charles T. Horngren in Cost Accounting, Fifth Edition. In this case, the record evidence demonstrates that the relative value of secondary pipe is insignificant compared to OCTG and line pipe, and accounts for only a small percentage of Siderca's sales.

Additional factors that the Department may examine include: the respondent's normal accounting treatment; whether significant additional processing occurs after the split-off point; whether management controls the quantity produced of the product in question; and whether its production is an unavoidable consequence of the production process (see Sebacic Acid; see also the Final Determination of Sales at Less than Fair Value: Titanium Sponge from Japan (49 FR 38687, October 1, 1987) and the Final Determination of Sales at Less than Fair Value: Frozen Concentrated Orange Juice from Brazil (52 FR 8324, March 17, 1987).

The respondent's normal accounting treatment indicates its opinion as to whether the product in question is a by- or co-product. A respondent's normal treatment is not considered persuasive if the Department has evidence indicating that it would be unreasonable for purposes of an antidumping analysis. In this case the respondent treats the product in question as a by-product. We find that this treatment does not distort the antidumping analysis. Significant additional processing of a magnitude that would raise the value of the product in question to a point where its relative value to the other main products is significant may indicate that the product should be treated as a co-product. In this case no additional processing takes place. Additionally, if management takes steps to intentionally produce the product, then it would be an indication that the product may be a co-product. If the production of a product is unavoidable, the product could be either a by-product or co-product. Other factors would have to be considered to make the determination. In this case, the management of Siderca takes steps to avoid the production errors which cause pipes to become seconds. It is only where production errors exist that the secondary pipe is produced. After careful consideration of all of the relevant factors, the Department concludes that the product in question was properly treated as a by-product in this investigation.

Comment 8: Fixed Fabrication and Depreciation Cost

The petitioners argue the difference between the company-wide average and the average of the reported fixed fabrication and depreciation cost indicates Siderca understated the reported amounts. The petitioners assert fixed costs are normally higher for OCTG than for other types of pipe because of substantially higher finishing costs for OCTG. The petitioners state differences in fixed costs could only result if different production lines are used or if different capacity utilization rates are realized, but neither situation applies to Siderca. The petitioners reference Siderca's production flow charts, which show that subject and non-subject merchandise share the same production lines. Where subject and non-subject merchandise do not share the same production line, the equipment used for downstream processing is similar.

Siderca argues it properly allocated depreciation expense in the reported product-specific costs. Siderca asserts the results of the gross comparison test can be explained. First, the test compares an average of all products to an average from only two OCTG markets. Siderca's plain-end pipes carry a smaller portion of fixed fabrication and depreciation, while the remaining production carries a greater amount of these costs, because of their complexity. Siderca argues the overall product mix of the merchandise sold to the United States and China is at the lower end of the complexity range. It is natural, they argue, that the average fixed fabrication and depreciation costs allocated to OCTG sold in the United States and China would be lower. The more complex products include pipe that is cold-drawn, custom threaded, buttress threaded, and also pup joints.

Second, the Department's verification report notes that the total depreciation expense was traced to each cost center and that Siderca demonstrated how the per-unit costs were determined using the productivity of each product in a given cost center. Siderca also notes the Department looked at several product comparisons which show the relative amounts of fixed fabrication costs allocated to each product.

Siderca contends that it was able to demonstrate the flow of fixed factory costs and depreciation from the financial statements to the amounts input into the computer for each cost center. Siderca notes that the Department verified the allocation factors used to apply fixed factory costs and depreciation and that they were the same factors used to allocate factory costs under normal circumstances. In addition, they note that the Department was able to recalculate the cost of manufacturing for the test products and compared the allocation of costs between various products, including line pipe. Siderca further argues that plain end pipes account for a significant portion of its U.S. sales, but account for only a small proportion of its overall sales.

DOC Position

We agree with Siderca. At verification, while we could not reconcile the total of the individual per unit fixed fabrication and depreciation costs to the total expense, we were able to perform alternative procedures in place of that reconciliation. If the Department is satisfied that the respondent described the systems abilities accurately, that the system was used in the normal course of business, and that the data could be verified through alternative procedures, then the Department normally does not adjust the reported information. In this case, the system used to allocate the fixed factory cost and depreciation is the same system used in the normal course of business to derive the variable factory costs. We performed the following alternative procedures in place of the reconciliation.

Our analysis compared a company-wide average of fixed factory overhead and depreciation expense to an average of these variables for only the U.S. and PRC markets. Additionally, our test of reasonableness compared a weighted-average figure of fixed factory overhead and depreciation expense to a simple average figure of these variables. We do not find that the Department's reasonableness test nor other evidence on the record indicated Siderca's methodology distorted the reported per unit costs. Consequently, we used the per unit fixed factory costs and depreciation reported by Siderca.

Comment 9: Treatment of Quality Control Costs

The petitioners argue the Department may not treat inspection costs as selling expenses. The petitioners contend that the costs in question are quality control costs incurred at the end of the production process and in varying degrees are incurred on all products. The petitioners cite the Final Determination of Sales at Less than Fair Value: Gray Portland Cement and Clinker from Japan (56 FR 12156, 12162, March 22, 1991), in which the Department held that quality control costs incurred at respondent's plant did not constitute selling expenses. The petitioners argue that the record does not demonstrate that the testing was a condition of sale. In the Final Determination of Sales at Less than Fair Value: Forged Stainless Steel Flanges from India (59 FR 68853, 68858, December 29, 1993), the petitioners argue that the Department found that there was no evidence on the record to support the assertion that the testing was a condition of sale, and the Department included the quality control costs in the cost of manufacturing.

Siderca argues that it correctly treated these particular inspection costs as selling expenses. It argues that its normal records treat these inspection costs as selling expenses, and notes that the Department verified Siderca's ability to identify the extra inspection costs associated with sales to China. It further argues that the Department has treated inspection costs as a selling expense in prior cases. Siderca cites the Final Results of Antidumping Duty Administrative Review and Revocation in Part of an Antidumping Duty Order: Antifriction Bearings from Japan (Industrial Belts) (58 FR 39729, 39750, July 26, 1993) and Final Results of Antidumping Duty Administrative Review: Industrial Belts and Components and Parts Thereof Whether Cured or Uncured, from Japan (58 FR 30018, 30024, May 25, 1993).

DOC Position

We agree with Siderca. We find that these costs are incurred commensurate with Siderca's corporate goal to continue to develop sales of OCTG to the PRC, a situation similar to that in Industrial Belts (Comment 12). At the sales verification, we looked at correspondence and other documentation between Siderca and the Chinese customer and were able to confirm that quality control issues were discussed in great detail.

At the cost verification, we were able to verify that Siderca tested OCTG destined for China significantly more than OCTG destined for other markets. Finally, Siderca is only claiming the quality control testing costs which can be specifically identified to a particular market. Siderca included quality control testing costs incurred at earlier production steps as a cost of production. These quality control testing costs incurred at the earlier production stage were incurred regardless of market and, therefore, were properly included in the COP. The quality control costs incurred at the end of production could be differentiated based on the market to which the merchandise was shipped.

Comment 10: Threading Technology Research and Development

The petitioners argue that the reported costs must include the amounts Siderca spent on threading technology R&D. The petitioners argue that Siderca's assertion that it properly excluded R&D costs is completely unsupported. The company brochure indicates Siderca's research center focuses on research into basic physical phenomena and research directly related to production techniques. It is clear, they argue, that R&D advancements in threading technology would benefit all OCTG products and are, therefore, not market specific.

Siderca argues it properly excluded non-related R&D costs from the cost of production. Siderca argues the R&D expenses did not relate to any of the products sold in the United States or China during the POI. The expenditures are targeted at the development of special threading for extreme conditions. Siderca argues that the brochure only refers to the capabilities of the R&D facility, not to specific R&D efforts. Siderca asserts that if the Department decides to include these R&D costs, the amount incurred in 1993 should be added, not the 1994 amount.

DOC Position

We agree with the petitioners. Siderca provided no support for its assertion that the R&D expenses relate only to OCTG products sold in markets other than the United States and China. More importantly, the R&D costs in question were for products included in the scope of the investigation, even if they were not sold in the United States or China during the period of investigation. Research into technologies for specific products within the scope of the investigation can reasonably be assumed to provide collateral benefits for other products within scope. It would be infeasible for the Department to identify model-specific distinctions in R&D expenditures. Generally, the Department has only made distinctions between research into subject and non-subject merchandise, as shown in the Final Determination of Sales at Less Than Fair Value: Antifriction Bearings and Parts Thereof From France, *et al.* (60 FR 10900, 101921, February 28, 1995). The Department normally does not make distinctions between research into specific models. We, therefore, included the R&D expenses as part of the cost of manufacturing.

Comment 11: Asset Taxes, Restructuring Costs and Social Security Taxes

The petitioners argue Siderca understated G&A expense by excluding a portion of asset taxes and by normalizing restructuring costs and social security taxes. Siderca calculated a G&A rate from the audited financial statements for the year ending March 31, 1994, but in doing so adjusted these three types of expenses. The petitioners argue the Department's long-standing practice requires G&A expenses to be calculated from the financial statements which most closely correspond to the period of investigation, as shown in Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From Thailand (Furfuryl Alcohol) (60 FR 22557, 22560, May 8, 1995).

In Furfuryl Alcohol, the Department reasoned G&A expenses are tied more closely to the time period than to the revenues earned during the period and, therefore, an average rate representing one full business cycle of the company is a reasonable basis on which to calculate the G&A rate. The Department concluded the G&A rate should be calculated from annual audited financial statements because G&A expenses: (1) Are incurred sporadically throughout the fiscal year; (2) are frequently based on estimates that are adjusted to actual expenses at fiscal year end; and (3) are typically incurred in connection with the company's overall operations. The salient point, the petitioners argue, is that Department methodology already smooths out fluctuations and captures a representative picture of respondent's G&A costs. The petitioners also note the Department's questionnaire instructed Siderca to calculate its G&A rate from the audited financial statements for the year which most closely corresponds to the POI.

Siderca argues the Department is mistaken about the amount of asset taxes excluded from G&A expense, and that it was proper to exclude this portion. Siderca argues the government repealed the asset tax four months prior to the POI and, therefore, the asset tax does not relate to the products under investigation.

In Argentina, the private pension funds took over the social security functions previously administered by the Argentine government. Individuals close to the retirement age were given the option of remaining under the old system. The retirement age was increased by five years. As a result, a significant number of individuals chose to retire early. This led to a larger than normal number of retirements for Siderca. These higher costs were recognized by Siderca in 1994.

Siderca argues that because of this, severance expenses and social security expenses were adjusted to reflect what they otherwise would have been if the government had not changed the labor law at the end of 1993. Because of the privatization, Siderca argues it incurred in fiscal 1993 labor costs that it otherwise would have incurred in a future period.

DOC Position

We agree with the petitioners. As the petitioners note, the Department's methodology intends to smooth out fluctuations and capture a representative picture of respondent's G&A costs (*see e.g.*, Furfuryl Alcohol). The Department's long-standing practice is to calculate G&A expenses from the audited financial statements which most closely correspond to the POI. Neither the change in the tax law nor the restructuring costs incurred during the period are extraordinary events that warrant a departure from the Department's practice. The events are neither unusual in nature nor infrequent in occurrence. Companies frequently must react to changes in the laws of the countries in which they conduct business. The specific change may not occur frequently, but tax laws which affect the company and its employees are continuously changing. Therefore, consistent with our normal methodology, as set forth in Furfuryl Alcohol, we have excluded Siderca's normalization of costs, and recalculated the G&A rate from audited financial statements for the year ending March 31, 1994.

Comment 12: Offsetting G&A With Intermediary Sales Revenues

The petitioners argue that Siderca inappropriately offset G&A expense with revenues from the sale of non-subject merchandise. Reported total G&A expense included other income and expenses. The detail of other income and expenses shows revenues from the sale of miscellaneous products, none of which were pipe. The petitioners argue the Department's long-standing policy is to deduct from G&A only the portion of miscellaneous income related to the production of subject merchandise. The petitioners cite the Final Results of Antidumping Duty Administrative Reviews: Certain Brass Sheet and Strip From Italy (57 FR 9235, March 17, 1992), in which the Department disallowed miscellaneous income because it did not relate to the subject merchandise.

Siderca argues that the revenue from the sale of intermediate products can be used to offset G&A expense because they were produced in the same integrated facility with the OCTG products. Siderca argues that the costs associated with the revenue are included in the reported costs, and therefore the G&A should be offset by the revenue. Siderca claims that the petitioners' focus on "production of the subject merchandise" is misleading. Siderca argues there does not have to be a direct link to OCTG, only to the production facilities where the merchandise was produced. Siderca cites the Final Determination of Sales at Not Less Than Fair Value: Saccharin from Korea (59 FR 58826, 58828, November 15, 1994), in which the Department stated that miscellaneous income should be permitted as an offset to G&A because the income was related to respondent's production operations.

DOC Position

We agree with Siderca. The insignificant size of the offset indicates the revenue is miscellaneous in nature and should be included in G&A. The costs associated with this revenue are captured in the company's overall variance and, therefore, have been included in the reported costs. As the Department noted in Saccharin from Korea, miscellaneous income relating to production operations of the subject merchandise may be permitted as an offset to G&A. Intermediate products, sold in small quantities, are considered to be related to production operations. We have included in G&A the miscellaneous revenue from the sale of intermediate products.

Comment 13: G&A Expense of Siderca Corp.

The petitioners argue the Department must treat the G&A expense of Siderca Corp. as further manufacturing costs and not as indirect selling expenses. They state that Siderca Corp. plays an integral part in the further manufacturing process, claiming it negotiates and oversees the work of the unrelated subcontractors, functions as a purchasing agent for Texas Pipe Threaders (TPT) and the unrelated subcontractor, and shares with TPT office space and the same company president. The petitioners argue that, because Siderca failed to demonstrate which of Siderca Corp.'s G&A expenses relate to further manufacturing, the Department should make an adverse inference, and include all of the costs in further manufacturing.

Siderca argues that it properly included Siderca Corp.'s G&A expenses as a selling expense. Siderca concedes that Siderca Corp. does purchase material for use in further manufacturing, and arranges when necessary for the further processing to occur at TPT and other processors. However, Siderca argues that Siderca Corp.'s activities are directed toward selling merchandise.

DOC Position

We agree with Siderca. Siderca Corp. may direct the movement of materials to the related and unrelated further manufacturers, but all production activities are carried out by the further manufacturers. These further manufacturers charge Siderca Corp. for their services. These charges have been reported as further manufacturing costs. We have treated the G&A expenses of Siderca Corp. as a selling expense, since the primary function of Siderca Corp. is one of a selling agent.

Comment 14: Interest Expense on Further Manufactured Merchandise

The petitioners argue that Siderca calculated and applied interest expense incorrectly on sales of further manufactured merchandise. The petitioners also argue Siderca inappropriately applied the interest factor to fabrication costs only, and thereby understated costs. Finally, the petitioners argue Siderca should calculate the rate from the consolidated financial statements of Siderca, rather than the financial statements of Siderca Corp.

Siderca maintains that Siderca Corp.'s interest expense is the appropriate measure of interest expense on sales of further manufactured merchandise. Siderca argues that Siderca Corp. has a direct line of credit with a bank in the United States to finance its operations. Siderca also argues that it is unnecessary to apply any financing to TPT's activities as the cash balance at TPT is sufficient to handle its requirements.

DOC Position

The Department's methodology for calculating financial expense is well-established (*see, e.g.*, the Final Determination of Sales at Less than Fair Value: New Minivans from Japan (57 FR 21937, May 26, 1992) and the Final Determination of Sales at Less than Fair Value: Small Business Telephones from Korea (54 FR 53141, December 27, 1989)). The Department's preference for using the consolidated financial statements of the organization, because of the fungibility of money, applies equally in further manufacturing situations. Both TPT and Siderca Corp. are consolidated with their parent, Siderca S.A.I.C.. Therefore, the appropriate rate to apply to the further manufacturing costs is the rate from the parent's consolidated financial statements.

The petitioners are incorrect in their assertion the rate should be applied to the cost of the materials (*i.e.*, the cost of the product produced by Siderca in Argentina which is further manufactured in the United States). The Department accounts for the interest expense associated with the product produced in Argentina as part of the financing cost of the product. It would effect a double counting of financial expenses if the Department applied the financial expense rate first to the product produced in Argentina and then to the total of the further manufactured product.

We applied the financial expense percentage calculated from the audited consolidated financial statements of Siderca to the cost of the foreign manufactured product and the cost of the U.S. further manufacturing.

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margins, as shown below for entries of OCTG from Argentina that are entered, or withdrawn from warehouse, for consumption from the date of publication of this notice in the Federal Register. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Siderca S.A.I.C.	1.36
All Others	1.36

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 75 days of the publication of this notice, in accordance with section 735(b)(3) of the Act. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury or threat of material injury does exist, the

Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in this investigation of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)) and 19 CFR 353.20.

Dated: June 19, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-15616 Filed 6-27-95; 8:45 am]

BILLING CODE 3510-DS-P

[A-433-805]

Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Austria

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 1995.

FOR FURTHER INFORMATION CONTACT: Bill Crow or James Maeder, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC. 20230; telephone (202) 482-0116 or 482-3330, respectively.

Final Determination

We determine that oil country tubular goods ("OCTG") from Austria are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination of sales at less than fair value in this investigation on January 26, 1995 (60 FR 6512, February 2, 1995), the following events have occurred.

In February and April 1995, the Department conducted its sales and cost verifications of the respondent, Voest-Alpine Stahlrohr Kindberg GmbH ("Kindberg"). Verification reports were issued on April 17, 1995, April 26, 1995, and April 27, 1994.

On May 12, 1995, Koppel Steel Corporation, U.S. Steel Group [a unit of USX Corporation) and USS/Kobe Steel Company ("the petitioners") and Kindberg submitted case briefs. Rebuttal briefs were submitted by both parties on May 19, 1995. No hearing was held, as petitioners withdrew their request on April 12, 1995.

Scope of Investigation

For purposes of this investigation, OCTG are hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

After the publication of the preliminary determination, we were informed Customs that HTSUS item numbers 7304.20.10.00, 7304.20.20.00, 7304.20.30.00, 7304.20.40.00, 7304.20.50.10, 7304.20.50.50, 7304.20.60.10, 7304.20.60.50, and 7304.20.80.00 were no longer valid HTSUS item numbers. This was confirmed by examination both of the Customs module and the published 1995 HTSUS tariff schedule. Accordingly, these numbers have been deleted from the scope definition.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1994, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Such or Similar Comparisons

For purposes of the final determination, we have determined that the OCTG covered by this investigation comprises a single category of "such or similar" merchandise within the meaning of section 771(b) of the Act. We modified the matching hierarchy outlined in Appendix V of the Department's antidumping questionnaire as described in the preliminary determination.

Fair Value Comparisons

To determine whether sales of OCTG from Austria to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice. When comparing the U.S. sales to sales of similar merchandise in the third country, we made adjustments for differences in physical characteristics, pursuant to 19 CFR 353.57. Further, in accordance with 19 CFR 353.58, we made comparisons at the same level of trade, where possible.

United States Price (USP)

We calculated USP according to the methodology described in our preliminary determination with the following exceptions: (1) We recalculated U.S. indirect selling expenses incurred in Austria to adjust for cost variances; (2) we recalculated U.S. indirect selling expenses incurred by Kindberg's Houston Texas related sales agent, VATC, to adjust for cost variances and to correct for an incorrect allocation of VATC's personnel costs; (3) we made corrections and adjustments to reported foreign brokerage charges; (4) we made corrections and adjustments to U.S. duty, wharfage and brokerage expenses, where necessary; and (5) we recalculated U.S. imputed credit to use an interest rate tied to U.S. dollar lending.

Foreign Market Value

As stated in the preliminary determination, we found that the home market was not viable for sales of OCTG and based FMV on third country sales to Russia.

Cost of Production (COP)

As we indicated in our preliminary determination, on October 5, 1994, the Department initiated an investigation to determine if sales in the third-country market were made below the cost of production (COP). In order to determine whether the third country prices were below COP within the meaning of section 773(b) of the Act, we calculated the COP based on the sum of Kindberg's cost of materials, fabrication, general expenses, and packing, in accordance with 19 CFR 353.51(c). Kindberg had reported four cost variances prior to the preliminary determination, but provided insufficient explanation and incomplete documentation. In fact, some of the information on the record at the date of the preliminary determination concerning the reported variances was self-contradictory.

We sent Kindberg several supplemental questionnaires. The last supplemental questionnaire due date fell after the preliminary determination, therefore we could only consider the corrections submitted pursuant to the last supplemental questionnaire for purposes of this final determination. Additionally, the nature of the variances was confirmed during the course of the cost verification. Therefore, for purposes of the preliminary determination, we did not adjust the reported standard costs for the reported variances because Kindberg had not, at that time, properly explained and documented these variances. Based on clarifications timely submitted after the preliminary determination and reviewed at verification, we analyzed the variances submitted by Kindberg for purposes of the final determination.

Kindberg's four reported variances are as follows: (1) The "Recalculating" (Verrechnungsergebnis) variance, which adjusts standard costs to actual costs, (2) the "Reconciling" (Überleitung) variance, which reconciles the cost accounting system results with Kindberg's financial statements, (3) the "Plant Idling" (Betriebstillstand) variance, which adjusts actual period factory overhead to reverse the decreased efficiencies of scale caused by factory idling, and (4) the "profit-sharing" (Gewinnausschüttung) variance, which adjusts actual period costs to reverse Kindberg's state-mandated bonus pay.

For our final determination, we made the following adjustments to Kindberg's costs:

1. We used only the "Recalculating" and "Reconciling" variances to adjust Kindberg's reported standard costs because the remaining two variances reflect an improper hypothetical normalization of actual costs incurred during the POI. A detailed and proprietary analysis of the nature of Kindberg's reported cost variances is contained in the Department's June 12, 1995, final concurrence memorandum. Also, see the Cost Comments section of the notice, below.

2. We have recalculated the variance as a percentage of the POI cost of manufacturing (COM) and applied that percentage to each per-unit cost of manufacturing. See also the Cost Comments section of the notice, below.

3. We calculated a revised (G&A) rate from the annual financial statements and applied this revised rate to the per-unit cost of manufacturing.

4. We removed from the COM of one model sold in the United States, to a separate packing expense field, the significant packing costs incorrectly included by Kindberg in COM.

5. We recalculated Kindberg's financial expenses using the 1993 annual audited financial statements of its parent organization, Ö.I.A.G. A detailed and proprietary analysis of this adjustment is contained in the Office of Accounting's June 13, 1995, memorandum.

After computing COP, we compared product-specific COP to reported third-country prices that were net of movement charges and direct and indirect selling expenses.

Results of COP Analysis

In accordance with Section 773(b) of the Act, we followed our standard methodology to determine whether the third country sales of each product were made at prices below their COP in substantial quantities over an extended period of time, and whether such sales were made at prices that would permit recovery of all costs within a reasonable period of time in the normal course of trade, as described in the preliminary determination.

Based on this methodology, for certain products sold in the United States, there were adequate numbers of third country sales made above the cost of production to serve as FMV. For U.S. sales of other products, there were not. In such cases, we matched U.S. sales to constructed value (CV).

Constructed Value

In accordance with section 773(e) of the Act, we calculated CV as described in the preliminary determination, with the same adjustments for purposes of this final determination as listed in the "Cost of Production" section above, with one additional change: We offset the financial expense calculated from Ö.I.A.G.'s financial statements by the ratio of trade receivables and inventory over total assets.

For CV to U.S. price comparisons, we made deductions from CV, where appropriate, for the weighted-average third country direct selling expenses. We also deducted the weighted-average third country indirect selling expenses. We limited this adjustment by the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

Third-Country Sales Comparisons

Where appropriate, we calculated FMV based on delivered prices to unrelated customers in Russia and to unrelated international trading companies whose customers in Russia were known to Kindberg at the time of Kindberg's sale to the trading company.

In light of the Court of Appeals for the Federal Circuit's (CAFC) decision in *Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement* v. *United States*, 13 F.3d 398 (Fed. Cir. 1994), the Department no longer can deduct third-country movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. Instead, we will adjust for those expenses under the circumstance-of-sale provision of 19 CFR 353.56(a), as appropriate. Accordingly, in the present case, we deducted post-sale third-country inland freight, inland insurance and foreign inland insurance from FMV as direct selling expenses under the circumstance-of-sale provision of 19 CFR 353.56(a).

We deducted third-country packing costs and added U.S. packing costs in accordance with section 773(a)(1) of the Act. We also made circumstance-of-sale adjustments for differences in direct selling expenses, which included credit, warranties, guarantees and commissions, in accordance with 19 CFR 353.56(a)(2). We deducted commissions incurred on third-country sales and added total U.S. indirect selling expenses, capped by the amount of third-country commissions; those total U.S. indirect selling expenses included U.S. inventory carrying costs, indirect selling expenses incurred in Austria on U.S. sales and indirect

selling expenses incurred in the United States.

Based on information obtained at verification, we made corrections and adjustments to certain charges claimed by Kindberg. We recalculated indirect selling expenses incurred in Austria for Russian sales to adjust for cost variances. We also recalculated imputed credit on Russian sales to use an interest rate tied to U.S. dollar lending, since Russian sales were denominated in U.S. dollars. Based on information obtained at verification, we allowed an adjustment for occasional early payment discounts, where applicable.

We discovered at verification that Kindberg failed to report a limited number of Russian sales. However, taking into considering the relatively insignificant volume of these sales and the FMV of these sales relative to the FMV of reported sales, we find that the omission does not distort our margin calculation. Therefore, we made no modification to our analysis to account for their inadvertent exclusion. See also *Sales Comment 1*, below.

Currency Conversion

We made currency conversions based on the official exchange rates, as certified by the Federal Reserve Bank of New York, in effect on the dates of the U.S. sales, pursuant to 19 CFR 353.60.

Verification

As provided in section 776(b) of the Act, we verified the information used in making our final determination.

Interested Party Comments

Sales Comments

Comment 1—Kindberg's Failure To Report Certain Russian Sales

The petitioners maintain that the Department should use best information available (BIA) to remedy Kindberg's failure to report Russian sales which account for a portion of the total volume of POI sales to Russia. According to the petitioners, the information on the record is not sufficient to determine what effect these sales would have on the calculation of third country prices or on dumping margins. The petitioners urge the Department to employ a methodology similar to that used in Final Determination of Sales at Less Than Fair Value: Fresh Kiwifruit from New Zealand (57 FR 13695, April 17, 1992), ("Kiwifruit") whereby the Department distributed the volume of the missing sales equally across all pricing periods, and assigned to each portion of the added volume the highest net price in the pricing period that was found in each kiwifruit category.

Kindberg maintains that its omission of these sales should be treated as a clerical error pursuant to section 735(e) of the Act and therefore should be corrected for purposes of the final determination. Kindberg rejects the petitioners' suggestion for use of BIA, stating that the failure to report these sales was unintentional and that their inclusion would have actually benefitted Kindberg. The respondent states that Kiwifruit as cited by the petitioners is not germane for several reasons: (1) The omission of the Russian sales was inadvertent; (2) Kindberg is not requesting that the sales be disregarded; (3) Kiwifruit involved the omission of a significantly larger portion of sales; and (4) Kiwifruit involved sales over six distinct pricing periods where the price did not change during those periods, whereas no analogous pricing structure exists for OCTG. Kindberg maintains that the Department should use its discretion to modify the record and not reject the new sales data, and argues that the courts have never reversed a decision by the Department to accept late information rather than use BIA.

DOC Position

We disagree with the petitioners in that we are not using BIA for these unreported sales. We also disagree with respondent, in that we have not corrected the database to account for the missing transactions. The amount of sales inadvertently omitted is relatively insignificant.

The Department has, in the past, disregarded sales inadvertently omitted from the database for FMV when such unreported sales were of insignificant quantity and value. In the Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from France, (58 FR 37131, comment 16, July 9, 1993), we disregarded previously unreported home market sales, both those presented at the outset of, and those discovered during the course of, the Department's verification, because they were of insignificant quantity and value.

Further, based on our analysis of sampled missing invoices, the gross prices of the omitted transactions were considerably lower than similar sales reported. As such, the record indicates that the omission of these third-country sales is in fact, adverse to respondent's interests. Accordingly, no further adverse action is warranted.

Comment 2—Discounts on Russian Sales

The petitioners argue that the Department should not allow any adjustment to third country prices for discounts. According to the petitioners, because Kindberg did not report discounts in its database sales listing, but rather only referred to their possible existence in the body of its narrative response, it never truly reported the discounts. The petitioners acknowledge that the Department was able to successfully test the discount program at verification; however, the petitioners also point out that the verification report records the verifier's notice to company officials that examination of the administration of the discount program did not constitute acceptance of the adjustment for purposes of the final determination. Indeed, they object to any such acceptance. The petitioners cite to the Department's regulation that factual information must be submitted no later than seven days before the scheduled date on which the verification is to commence (19 CFR 353.31(a)(i)), maintaining that the inclusion of the discounts is not warranted because the discounts are not a minor revision to the responses but instead are substantial new information.

Kindberg maintains that its omission from the computer listing of these discounts should be treated as a clerical error pursuant to section 735(e) of the Act and therefore corrected for purposes of the final determination. Kindberg maintains that it did report these discounts in its response, though it inadvertently did not include them on its submitted computer tape. Kindberg states that the Department corroborated the applicability of the discounts at verification.

DOC Position

We disagree with the petitioners. Kindberg did report the circumstances in which this discount apply and the percentage thereof, but failed to include the transaction-specific amounts in its computerized sales listing. The detailed information submitted by Kindberg enabled the Department to analyze the pertinent Russian sales prior to verification. Thus, the verification team had at its disposal the subset of such sales in a format which allowed relatively easy review of the omitted discounts. Kindberg officials recognized and alerted verifiers to their mistake early in the verification. The sample selected for verification by the team tied correctly and the correction placed no administrative burden on the Department. Given these particular

circumstances, we modified the final programming to deduct the discount from those sales with the corresponding payment code.

Comment 3—Exchange Rates

The petitioners contend that the Department should follow its normal practice and apply the Federal Reserve exchange rates in its final margin calculations and reject Kindberg's logic for using the "secured exchange rates" reported in its sales listings. The petitioners maintain that the Department's regulations governing currency conversions state clearly that the Department will use the quarterly exchange rates published by the Treasury Department on the applicable date of sale. First, the petitioners claim that the Department's decision in the administrative review of Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, *et. al.*, 60 FR 10900, 10921 (February 25 1995), confirms that the Department will not use the exchange rate a company allegedly received through hedging operations, citing our position in that review that the Department is required by 19 CFR 353.60 to make currency conversions using the Federal Reserve rates. Second, the petitioners allege that verification revealed that many sales were not secured by forward contracts, but were entered into Kindberg's books using either a mixed rate consisting of the secured exchange rate and the daily exchange rate quoted in the Wiener Zeitung or the Wiener Zeitung daily rate alone.

Kindberg maintains that the mix of daily and hedged currency conversion rates should be treated as a clerical error pursuant to section 735(e) of the Act (19 USC 1673d(e)) and therefore corrected for purposes of the final determination. Kindberg argues that the reported exchange rate contracts lock in sales that are denominated in U.S. dollars and that these rates are integrally linked to Kindberg's cost accounting and financial accounting systems.

DOC Position

We disagree with the respondent. First, the Department should not use Kindberg's parent-company's partial currency hedging exchange rates in lieu of official exchange rates. The Department is required by 19 CFR 353.60 to make currency conversions using the Federal Reserve rates.

Second, the petitioners are correct in pointing out that verification revealed that many sales were not secured by forward contracts, but were entered into Kindberg's books using either a mixed rate consisting of the secured exchange rate and the daily exchange rate quoted in the Wiener Zeitung or the Wiener Zeitung daily rate alone. Kindberg is incorrect to classify a question of fundamental calculation methodology as a "clerical" error. The error herein is Kindberg's inaccuracy in describing the use of "secured" exchange rates. The Department cannot accurately use Kindberg's mix of reported exchange rates, since the databases for U.S. and third-country sales do not indicate which transactions were "secured," which were recorded with daily newspaper rates and which were recorded with part-secured/part-daily rates.

Comment 4—Third Country Commissions

The petitioners argue that the Department should not adjust Kindberg's third country prices for commissions because Kindberg failed to submit adequate information regarding commissions paid on sales to the Russian market. According to the petitioners, Kindberg failed to provide meaningful details on the payment of charges it claims as commissions in its response. Additionally, the petitioners argue that Kindberg failed to submit any usable information regarding commissions until verification. The petitioners maintain that the information presented at verification by Kindberg indicates that the commissions may not be linked to individual sales or even calculated on the basis of sales.

Kindberg maintains that it reported in its response that commissions on sales to Russia are negotiated individually and may vary for each commissionaire depending on the agreement negotiated with Kindberg. Further, Kindberg states that, regardless of the extent of their services, all commissionaires provide Kindberg with client contact and client cultivation directly relating to sales that are the subject of this investigation. Kindberg therefore urges the Department to make a downward adjustment to foreign market value to account for these commissions.

DOC Position

We disagree with the petitioners. The payments examined in the context of the selected Russian sales were documented by Kindberg as having been administered as commissions. These payments were made in recognition of the selling functions of the trading companies, which are located in market economies, and are by nature sales commissions. The general purpose and administration of these payments is fully consistent with the characteristics of commissions outlined in the Final Determination of Sales at Less Than Fair Value: Stainless Steel Angle from Japan, (60 FR 16608, 16611, March 31, 1995). These characteristics are consistent in that: (1) These adjustments are designed and agreed upon in writing with the commissionaires; (2) commissions were earned directly on sales made, based on flat rates or percentage rates applied to the value of individual orders; (3) the commissions take into consideration the expenses which the trading companies must incur to cultivate and maintain successful relationships with Russian purchasers; and (4) Kindberg relies on the external sales and marketing abilities of these commissionaires in lieu of establishing its own larger Eastern European sales force. We are, therefore, continuing to treat these reported adjustments as commissions, deducting them from FMV and adding to FMV indirect selling expenses incurred by Kindberg on U.S. sales, capped by the amount of third-country commissions.

Comment 5—Value Allocation of U.S. Indirect Selling Expenses

The petitioners maintain that in calculating U.S. price, the Department should divide the total U.S. indirect selling expenses reported by Kindberg by the value of sales to obtain the proper allocation, rather than use the per-ton charges originally reported by Kindberg.

DOC Position

We agree with the petitioners, and are calculating indirect selling expenses, both on U.S. and Russian sales, as a percentage of sales.

Comment 6—U.S. Credit Expenses

The petitioners note that in reporting U.S. sales, Kindberg calculated imputed credit using an Austrian interest rate of 4.6 percent. They point out that in the preliminary determination, the Department based its calculation of U.S. imputed credit on the late payment charge formula used by VATC on its invoices, of "prevailing New York prime plus 1 percent." According to the petitioners, the Department has stated in the past that for a given interest rate to be used, a respondent must show that it actually had access to funds at that interest rate. The petitioners maintain that Kindberg has provided no information that it or VATC in access to funds at the prevailing New York prime rate plus one percent. The petitioners urge the Department to use the higher interest rate on Kindberg's invoices to VATC to calculate U.S. imputed credit.

In response, Kindberg maintains that the Department should not use the late payment rate set forth on its invoices to VATC because this rate is not a borrowing rate but rather a punitive rate established by Kindberg to encourage timely payment by their related sales agent. Asserting that this rate does not reflect the actual cost to it for extending credit to customers in the United States, Kindberg urges the Department to use instead the 4.6 percent interest rate it reported which was based on its deferred interest deposits in Austrian schillings.

DOC Position

We disagree with both parties. Petitioners object to using the U.S. interest rate noted on the VATC invoice to the U.S. customer, and would have us use a higher rate noted on the pro-forma invoice from Kindberg to VATC. Yet the higher rate set forth on the pro-forma invoice does not represent actual borrowing by Kindberg any more than does the rate on the VATC invoices. However, the rate on the VATC invoice is used by VATC to establish the time value of credit it extends when receiving late payment by the first unrelated U.S. customer, the purchaser who defines the actual U.S. transaction. Additionally, the rate on the VATC invoice to the U.S. customer is tied to an objective market rate, the N.Y. prime interest rate.

In contrast, the nominal late payment interest rate shown on the Kindberg to VATC invoices is for delinquent intra-company repatriation of funds from VATC to Kindberg, and is not tied to any objective benchmark related to the lending market, such as a U.S. prime rate. Thus, it is even further removed from objective commercial criteria.

We are not using the reported rate of 4.6 percent because this Austrian rate is denominated in schillings, and both U.S. and Russian sales are denominated and paid for in U.S. dollars. A company selling in a given currency (such as sales denominated in dollars) is effectively lending to its purchasers in the currency in which its receivables are denominated (in this case, in dollars) for the period from shipment of its goods until the date it receives payment from its purchaser. Thus, when sales are made in, and future payments are expected in, a given currency, the measure of the company's extension of credit should be based on an interest rate tied to the currency in which its receivables are denominated. Only then does establishing a measure of imputed credit recognize both the time value of money and the effect of currency fluctuations on repatriating revenue.

Since the purchaser of record in the investigation is the first unrelated customer in the United States, the appropriate interest rate reflecting imputed credit expenses by Kindberg through VATC is a rate denominated in U.S. dollars. The New York prime rate plus one percent is the rate set during the POI by which Kindberg's related U.S. sales agent measured the time value of late revenue on U.S. sales. In a parallel manner, the Department's imputed credit expense measures the cost to Kindberg, via VATC, of extending credit to that U.S. customer. Additionally, since sales to Russia are also denominated in U.S. dollars, and since this is the only dollar-denominated interest rate indicated by Kindberg's actual business practices, we are also calculating imputed interest for those sales at the New York prime interest rate plus one percent.

Comment 7—Price Changes on Certain U.S. Sales

The petitioners note that the Department discovered that for certain U.S. sales, VATC did not simply re-invoice the prices recorded in Kindberg's invoice to it, but re-invoiced the first unrelated U.S. customer at a higher price, based on renegotiated extended payment terms and, on one occasion, on extraordinary freight expenses incurred by VATC. The petitioners urge the Department not to make any adjustment to these price changes in its final antidumping calculations.

Kindberg states that for the sales where VATC had to re-invoice the customer, the new payment terms were contained in the purchase orders sent from VATC to Kindberg, but omitted from the invoice sent from Kindberg. Kindberg urges the Department to adjust these U.S. prices upward.

DOC Position

We agree with the petitioners. Kindberg did not identify the invoice reporting error to the Department, rather, this inaccuracy was discovered by the Department. We note, however, that the occasional freight charges incurred were passed on exactly to the U.S. customer and that the upward adjustment to U.S. price for extended payment terms was offset by the increased cost of the extended credit. Thus Kindberg's failure to report the subset of changed VATC invoice prices and related charges had no effect on the margin calculations. Additionally, Kindberg's mistake was inadvertent. For these reasons, we did not make any adjustment to the reported gross price on those sales, nor did we apply partial BIA.

Comment 8—Unincorporated Russian Debit and Credit Memoranda

Citing from the Austrian Sales Verification Report, Kindberg notes that it had not matched several debit and credit memos to the Russian sales that they modified. Kindberg stresses that the net effect of the unincorporated memoranda was an over-reporting of certain third-country sales prices and urges, therefore, that the mistakes identified at verification be corrected.

DOC Position

We disagree with the respondent. First, it is not the Department's practice to make substantial and complicated revisions, nor is it the Department's responsibility to reconstruct a response. Correction of the omission of these debit and credit memoranda would require extensive matching and recalculation of specific prices by matching missing memoranda to invoices through mill orders.

Second, in this specific instance, the net effect of Kindberg's omissions is a marginally higher FMV than the correct amount, which we note is slightly adverse to the respondent. We are therefore keeping the reported third-country prices unchanged for purposes of the final determination.

Comment 9—Double-counting of Transportation Insurance Expenses in U.S. and Russian Indirect Selling Expenses

Kindberg notes that the Department found at verification that Kindberg had double-counted transportation insurance expenses by reporting these individually and also as a sub-component of indirect selling expenses, both for sales to the United States and to Russia. Kindberg urges that the mistakes identified at verification be corrected.

DOC Position

We disagree with the respondent. We agree that, where significant, double-counting may be addressed. We note, however, that the inadvertent inclusion of insurance costs comprises a very minute per-ton amount. Additionally, we note that this small error affects equally both U.S. price and FMV. We did not collect the rather extensive documentation required to correct this minor inclusion. Because it is not the Department's practice to reconstruct major portions of a response, which would be required in order to back out these costs from indirect selling

expenses, we are using the expenses as reported.

Comment 10—Packing Costs

The petitioners argue that the Department confirmed at verification that Kindberg incorrectly included packing costs in its calculation of the variable cost of manufacturing used for COP, CV and difference-in merchandise (DIFMER) calculations. According to the petitioners, it is a well-established principle that packing costs are not a cost of manufacturing, and are not included in the variable costs or the difmer calculation, but should instead be reported separately.

However, they also maintain that for all but one model of OCTG the impact of these misplaced packing costs are immaterial. The petitioners state that for that one remaining model where the packing is in wooden boxes, a uniquely expensive method, the actual costs needed for the margin calculations are not on the record. They therefore urge the Department to assign, as partial BIA, to all U.S. sales of this model, a packing cost based on the difference between the highest total cost (sum of material costs, labor costs and variable overhead) of any U.S. sale, which is packing inclusive, and the total cost for the same model as sold in the third country, which is packing exclusive. Calculating this difference isolates from total COM the packing charges which were only included in COM for the U.S. sales of this model.

Kindberg maintains that the special packing costs for this one U.S. model should not be included in the variable cost of manufacturing or in the calculation of differences in merchandise, but that they should be reported as packing costs based on actual cost. Kindberg does not agree with the petitioners' contention that the highest difference in total manufacturing costs for this model should be used as BIA. Kindberg does not state how it would recommend remedying the incorrect reporting.

DOC Position

We agree with the petitioners that the packing costs should not have been reported as a component of manufacturing costs. We also agree with the petitioners that the packing costs should be removed from the reported manufacturing costs and reported independently as packing charges for the specific model in question. We do not agree with the petitioners' recommendation for partial BIA. We have instead calculated the packing expenses for this model from cost of manufacturing based on the data collected at verification, as noted in greater detail in the June 13, 1995, Office of Accounting memorandum. The Department identified the difference between the average unpacked COM reported in the COP database for this OCTG model when sold to Russia and the average packed COM reported in the CV database for sales to the United States. This data allowed the Department to compute a POI-average packing cost for the U.S. sales of this model.

Cost Comments

Comment 1—Cost of Steel Billets

The petitioners object to the use of transfer prices from Kindberg's related supplier, VA Stahl Donawitz, in determining the cost of production and constructed value. They maintain that the use of the reported transfer prices to determine either COP or CV would be contrary to the Act.

With respect to COP, according to the petitioners, Kindberg never provided cost data for raw material purchased from Donawitz, despite the fact that Kindberg and Donawitz are both under common control. The petitioners question the validity of Kindberg's submission of general cost data pertaining to Donawitz's production of various types of blooms and billets, which the petitioners characterize as being untranslated and incomprehensible. The petitioners maintain that these documents do not establish the COP of the billets purchased by Kindberg. Therefore, the petitioners argue that Kindberg has failed to meet the statutory requirement for the use of transfer prices in COP.

With respect to CV, the petitioners maintain that U.S. law only allows the use of transfer prices if two conditions are met: (1) The transfer price reflects market value, and (2) for major inputs, the transfer price is shown to be above the cost of producing the input. They cite to the Department's administrative review of Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom, 58 FR 39729, 39754–5, July 26, 1993.

The petitioners contend that Kindberg has not fulfilled the first condition because it did not demonstrate that the POI purchases of Donawitz billets were at market value, but instead made a comparison of market prices and transfer prices for the year prior to the POI. The petitioners also argue that Kindberg has also failed to meet the second condition, since they presented no actual COP data on billets, the single most significant input for OCTG production.

To remedy this alleged deficiency, the petitioners recommend that the Department follow the statutory instruction to construct cost on the best evidence available as to what costs would have been if the transaction had occurred between unrelated parties. The petitioners suggest that the Department increase the raw material variable overhead for each control number by an amount equal to the average cost of manufacture reported by Donawitz, multiplied by the statutory ten percent for SG&A.

Kindberg contends that it has provided both a comparative analysis of market prices and Donawitz's average cost of production per ton per billet during the POI for the record in this investigation. According to Kindberg, the information provided demonstrates that the transfer prices are above Donawitz's cost of production and that Donawitz was profitable during the full year 1994. Kindberg claims that the documentation shows specifically that Donawitz sold raw materials to it at a profit. Kindberg therefore urges the Department to utilize the reported transfer prices in its calculation of cost of production and constructed value.

Kindberg maintains that the petitioners' suggestion that the Department should increase the variable overhead cost of raw materials by a hypothetical amount is totally without merit. Kindberg claims that this suggestion was made without citation to administrative precedents, judicial precedents or statutory authority; further, the suggestion runs counter to the antidumping law. Kindberg maintains that the Department is required to, and has a practice of, using actual market prices when related party prices are found to be unreliable. According to Kindberg, the information on record clearly establishes that market prices are lower than those paid by Kindberg to its related party supplier.

DOC Position

We disagree with the petitioners. Kindberg: (1) Was able to show benchmark market prices using both a 1994 contract for purchases of billets from an unrelated party; and (2) provided cost data from Donawitz showing the average cost of producing billets to be below all of the transfer prices reported. Therefore, we used the transfer price from Donawitz to Kindberg for purposes of the final determination.

Comment 2—The Plant Idling Variance

The petitioners maintain that Kindberg's calculation of net cost variance improperly included a reduction in costs calculated to reflect idle plant expenses due to problems with a major contract. The petitioners contend that this element, which Kindberg called its "Plant-Idling variance" is not truly a cost variance. According to the petitioners, Kindberg is using this amount to adjust actual costs to hypothetical costs, *i.e.*, those costs which would have been incurred if it had not encountered contract problems and thus had operated its factory at "normal" levels in 1994. The petitioners cite to Final Determination of Sales at Less Than Fair Value: Titanium Sponge from Japan, 49 FR 39687, 38689, October 1, 1984, to support their contention that the Department has in the past specifically rejected adjustments to actual costs, where the adjustments were designed to convert actual production costs to those of a "hypothetical efficient cost model." Second, the petitioners maintain that the Department requires respondents to report a fully absorbed cost of production, including costs associated with down time and with low capacity utilization. The petitioners contend that, based on this principle, the Department requires respondents to include depreciation costs of idled equipment and labor costs of idled staff. According to the petitioners, such costs are included in COP regardless of the cause of plant idling.

According to Kindberg, the reported variance includes costs which are not associated with temporary down-time or low capacity utilization or other costs incurred due to general business conditions such as strikes or production problems or factory modernization. Kindberg maintains that the freezing of the contract, particularly for an extended period of time, forced the factory to incur unforeseeable costs that are not normally associated with general business conditions. Kindberg argues that, because these costs do not reflect its actual cost of production, the Department should include this variance in the calculation of cost of production and constructed value.

DOC Position

We disagree with the respondent. We are rejecting the adjustment to fixed factory overhead costs for the "Plant Idling" variance. Rejecting this claimed adjustment corrects fixed factory overhead to the levels actually incurred in the POI. The Department's practice is to calculate the respondent's fully absorbed cost of production for the POI. By fully absorbed cost the Department means actual cost incurred in the POI, including period costs such as SG&A, financial expense and all non-operating costs. The purpose of the COP test is to determine if the respondent's home market or third-country price is sufficient to recover all of its costs, including period costs.

Kindberg recognized the total overhead costs as an operating expense in their income statement, not as an extraordinary expense. Under Austrian GAAP, these expenses were not considered extraordinary, and, in fact, they were not reported as extraordinary expenses in Kindberg's financial statements. As noted in Final Results of Antidumping Duty Administrative Review: Color Picture Tubes from Japan (55 FR 37924, September 14, 1990, the Department does not normally accept the use of expected or budgeted production quantities. Although the cause of Kindberg's loss of the export guarantee was unique, the resulting delay in a major sale was not itself an extraordinary event. Moreover, Kindberg did not provide any evidence to establish their normal production level. The Department may normalize production costs in extraordinary circumstances if the respondent provides several years of production data, establishing their normal historical production level. Kindberg only submitted its year-end yield accounts. Without the historical cost data, we would not have been able to analyze a benchmark for the "normal" production level of Kindberg, even if we had determined that normalization was appropriate.

Comment 3—The Profit Sharing Variance

The petitioners maintain that Kindberg's calculation of net cost variance improperly included a reduction in costs calculated to adjust for its distribution of profit to employees. The petitioners contend that this element, which Kindberg called its "profit-sharing variance" is not truly a cost variance. According to the petitioners, Kindberg is using this amount to remove from the reported manufacturing costs, the expense of paying its employees as mandated by Austrian law. The petitioners cite to the final determinations in the administrative reviews of Porcelain-on-Steel Cooking Ware from Mexico (Mexican Cooking Ware), (60 FR 2378, 2839 January 9, 1995) and (58 FR 43327, 43331–43332, August 16, 1993) as well to the Final Determination of Sales at Less Than Fair Value: Carbon Steel Flat Products from Canada, (58 FR 37099, 37113–37114, July 9, 1993), to support their claim that the Department has consistently required such payment to be included in COP.

Kindberg argues that it properly removed from production costs the bonuses paid to employees under the profit sharing plan. Kindberg states that the Austrian Government sets statutory wage rates and salaries for different jobs in the iron and steel industry and that the profit distribution is a regular incentive given to employees, even if the company incurs a loss. Kindberg argues that the amounts should not be included in the reported costs, because the profit distributions exceed the statutory wages Kindberg is required to pay.

DOC Position

We disagree with respondent. We are rejecting Kindberg's adjustment to manufacturing costs for the "Profit-Sharing" variance. Rejecting this variance restates Kindberg's conversion costs to amounts reflecting the actual costs incurred in the POI.

In general, from an economic standpoint, there are several benefits that a company receives through the adoption of a profit sharing plan. The company's fixed wages are reduced allowing it to remain cost efficient in tough economic conditions. The promise of sharing profits in prosperous periods can be used to gain wage concessions from unions. Therefore, profit sharing plans are directly related to wages and salaries.

From an accounting perspective, profit distributions to employees are treated in a manner similar to bonuses. They are typically recorded as an expense and are shown on the income statement. Kindberg included these nominal "profit-sharing" distributions as an operating expense on its financial statements. In contrast, dividends, which are true distributions of profit, affect only the equity section of the balance sheet and do not flow through the income statement. This distinction implies that profit sharing distributions are more closely associated with expenses, rather than with earnings. Kindberg admits in its case brief that the profit-sharing distributions are regular incentives to employees and that the distributions increase the operating loss.

Consistent with our determinations in consecutive administrative reviews of Mexican Cooking Ware, the Department determines that these mandatory payments represent compensation to the employees for their efforts in the production of merchandise and the administration of the company.

Comment 4—Allocation of Net Variance

The petitioners take exception to the allocation of Kindberg's net variance. Kindberg divided the total of all of its variances by the total tons produced in the POI. This fixed amount per ton was applied as an offset to each specific per unit standard cost reported to the Department.

The petitioners argue that the Department must apply the cost variances to the cost of manufacturing as a percentage, rather than as a fixed amount per ton. The variance must be applied as a percentage in order to obtain an applied variance proportional to the manufacturing costs. The petitioners argue the fixed amount per ton distorts the reported costs, because it understates the variance applied to products with higher manufacturing costs and overstates the variance applied to products with lower manufacturing costs. The petitioners cite Carbon Steel Alloy Steel Wire Rod from Canada, 59 FR 18791 (April 20, 1994), in which the Department disallowed the use of tonnage to allocate melt shop costs, because it resulted in the same cost per ton regardless of steel grade.

DOC Position

We agree with the petitioners. We have recalculated the variance from standard cost as a percentage of the POI cost of manufacturing and applied the rate to each per-unit cost of manufacturing. The petitioners are correct in their assertion that Kindberg's methodology "smooths" costs by applying a smaller proportion of the variance to products with higher production costs. The variance relates to all production costs and should be allocated proportionally among product costs.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1)of the Act 19 USC 1673b(d)(1), we directed the Customs Service to suspend liquidation of all entries of OCTG from Austria, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after February 2, 1995.

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below for entries of OCTG from Austria that are entered, or withdrawn from warehouse, for consumption from the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Producer/manufacturer/exporter	Margin percentage
Voest-Alpine Stahlrohr Kindberg GmbH	12.72
All Others	12.72

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in this investigation of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)) and 19 CFR 353.20.

Dated: June 19, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–15617 Filed 6–27–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–475–816]

Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 1995.

FOR FURTHER INFORMATION CONTACT: Bill Crow or Stuart Schaag, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0116 or (202) 482–0192, respectively.

Final Determination

The Department of Commerce (the Department) determines that oil country tubular goods (OCTG) from Italy are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d). The estimated margins are shown in the Suspension of Liquidation section of this notice.

Scope of the Investigation

For purposes of this investigation, OCTG are hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

After the publication of the preliminary determination, we found that HTSUS item numbers 7304.20.10.00, 7304.20.20.00, 7304.20.30.00, 7304.20.40.00, 7304.20.50.10, 7304.20.50.50, 7304.20.60.10, 7304.20.60.50, and 7304.20.80.00 were no longer valid HTSUS item numbers. Accordingly,

these numbers have been deleted from the scope of this investigation.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1994, through June 30, 1994.

Case History

Since our preliminary determination (60 FR 6515, February 2, 1995) the following events have occurred. On February 3, 1995, one of the respondents, Dalmine S.p.A. (Dalmine), requested a postponement of the final determination. This request was granted (60 FR 8632, February 15, 1995), and the final was postponed by the Department until no later than June 19, 1995. On May 2, 1995, Dalmine submitted its case brief. On May 3, 1995, petitioner submitted its case brief and on May 10, 1995, petitioner submitted its rebuttal.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Best Information Available

In accordance with section 776(c) of the Act (19 U.S.C. 1677e(c)), we have determined that the use of best information available (BIA) is appropriate for all companies. Given that none of the three named companies responded fully to the Department's questionnaire, we find that no respondents have cooperated in this investigation.

In determining what to use as BIA, the Department follows a two-tiered methodology, whereby the Department normally assigns lower *margins* to those respondents who cooperate in an investigation, and *margins* based on more adverse assumptions for those respondents who do not cooperate in an investigation. If the Department deems a respondent to be non-cooperative, that respondent's final margin for the relevant class or kind of merchandise is the higher of either (1) the highest margin in the petition, or (2) the highest calculated margin of any respondent (see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany: Final Determination of Sales at Less Than Fair Value (54 FR 18992, 19033, May 3, 1989)). The Department's two-tier methodology for assigning BIA based on the degree of respondents' cooperation has been upheld by the U.S. Court of Appeals for the Federal Circuit. (*See Allied Signal Aerospace Co.* v. *United States*, 996 F.2d 1185 (Fed. Cir. 1993); see also *Krupp Stahl, AG et al.* v. *United States*, 822 F. Supp. 789 (CIT 1993).)

In this investigation, the mandatory respondents have refused to cooperate by failing to respond, either entirely, or in large part, to the Department's questionnaire. Therefore, in accordance with our standard practice, the Department has assigned the highest margin in the petition to all respondents. The assigned BIA margin is the same margin that was assigned for the preliminary determination.

Fair Value Comparisons

To determine whether sales of subject merchandise from Italy to the United States were made at less than fair value, we compared United States price (USP) to foreign market value (FMV) as reported in the petition. See Initiation of Antidumping Duty Investigation of Oil Country Tubular Goods Pipe from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain (59 FR 37962, July 26, 1994).

Comment 1—Comments Regarding Dalmine S.p.A.

Dalmine urges the Department to reverse its November 4, 1994, decision that Dalmine's home market is viable (see November 4, 1995, Memorandum from Richard W. Moreland to Barbara R. Stafford). As a basis for this reversal, Dalmine refers to arguments made in its November 14, 1994, submission. In this submission, Dalmine challenged the legality of the Department's determination that Dalmine's home market is viable. Dalmine asserted that the Department's standing policy is not to use related party sales in its home market viability calculation. Dalmine also requests that the Department take into account its December 1994 announcement concerning the Department's reconsideration of its policy regarding downstream related party sales (see December 27, 1994 Letter from Roland L. MacDonald, Director, Office of Agreements Compliance, to Dofasco Inc.). In the event that the Department reverses its November 4 viability determination, Dalmine urges the Department to request, review, and verify Dalmine's third country sales data. Although such a task would extend past the Department's deadline for the final determination in this investigation, Dalmine argues that the Department's deadlines are hortatory and not mandatory and, therefore, the Department may take the time that is needed to receive and verify new responses.

Petitioner argues that Dalmine's case brief merely refers to previous submissions that have already been rejected by the Department. Additionally, petitioner argues that downstream sales are not an issue in this investigation and, therefore, Dalmine's request that the Department reconsider its home market viability decision based on the Department's review of its policy regarding the reporting of downstream customers is irrelevant. Petitioner maintains that Dalmine's refusal to comply with the Department's explicit instructions to report home market sales can only be characterized as noncooperative and that the Department has no option but to use the highest margin alleged in the petition as BIA.

DOC Position

We re-affirm our previous decision that Dalmine's home market is viable and that Dalmine's refusal to comply with the Department's request for home market sales information constitutes uncooperative behavior.

In its November 4 determination, the Department decided that the nature of the relationship between Dalmine, its home market customers, and the Government of Italy, was not pertinent to the Department's home market viability analysis. The record contains no information that would cause the Department to change this decision. Additionally, the Department's announcement that it was reviewing its present policy regarding sales to downstream customers has no bearing on its policy to use sales to both related and unrelated parties in its viability analysis.

Comment 2

In order to preserve the viability issue in the event that Dalmine decides to appeal the Department's determination, Dalmine urges the Department to clarify in this notice the extent of Dalmine's cooperation in this investigation and the reasons for Dalmine's decision not to report home market sales data. Specifically, Dalmine requests the Department to acknowledge that Dalmine informed the Department that its home market was not viable and that the Department rejected Dalmine's proposal because it considered Dalmine's home market to be viable. Additionally, Dalmine asks that the Department respond to the legal arguments addressed in Dalmine's November 14 submission and that the Department's analysis take into account the policy announcement that the

Department made on December 27, 1994, regarding the Department's requirement to report downstream related party sales.

Petitioner argues that there is no need for the Department to revisit its decision regarding the viability of Dalmine's home market.

DOC Position

The information regarding the extent of Dalmine's participation in this investigation is already a matter of public record. In the event that Dalmine appeals the Department's actions, the Department's previous decision to request home market information, Dalmine's subsequent arguments concerning the Department's decision, and Dalmine's refusal to supply the Department with requested information are all on record in the official file in the Central Records Unit of the Department.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act (19 USC 1673b(d)(1)), we directed the Customs Service to suspend liquidation of all entries of OCTG from Italy, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after February 2, 1995.

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below, for entries of OCTG from Italy that are entered, or withdrawn from warehouse, for consumption from the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Dalmine S.p.A.	49.78
Acciaierie Tubificio Arvedi S.p.A.	49.78
General Sider Europa S.p.A.	49.78
All Others	49.78

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in this investigation of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: June 18, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–15618 Filed 6–27–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–835]

Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 1995.

FOR FURTHER INFORMATION CONTACT: John Beck or Stuart Schaag, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone (202) 482–3646 or (202) 482–0192, respectively.

Final Determination

The Department of Commerce (the Department) determines that oil country tubular goods (OCTG) from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d). The estimated margins are shown in the Suspension of Liquidation section of this notice.

Scope of the Investigation

For purposes of this investigation, OCTG are hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

After the publication of the preliminary determination, we found that HTSUS item numbers 7304.20.10.00, 7304.20.20.00, 7304.20.30.00, 7304.20.40.00, 7304.20.50.10, 7304.20.50.50, 7304.20.60.10, 7304.20.60.50, and 7304.20.80.00 were no longer valid HTSUS item numbers. Accordingly, these numbers have been deleted from the scope definition.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1994, through June 30, 1994.

Case History

There has been no activity in this investigation since the preliminary determination (60 FR 6506, February 2, 1995).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Statute and to the

Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Best Information Available

In accordance with section 776(c) of the Act (19 U.S.C. 1677e(c)), we have determined that the use of best information available (BIA) is appropriate for both Nippon Steel Corp. and Sumitomo Metal Industries, Ltd. Given that neither of the named companies responded to the Department's questionnaire, we find that no respondents have cooperated in this investigation.

In determining what to use as BIA, the Department follows a two-tiered methodology, whereby the Department normally assigns lower margins to those respondents who cooperate in an investigation, and margins based on more adverse assumptions for those respondents who do not cooperate in an investigation. If a respondent is non-cooperative, that respondent's final margin for the relevant class or kind of merchandise is the higher of either (1) the highest margin in the petition, or (2) the highest calculated margin of any respondent (see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany: Final Determination of Sales at Less Than Fair Value (54 FR 18992, 19033, May 3, 1989)). The Department's two-tier methodology for assigning BIA conditioned on the degree of respondents' cooperation has been upheld by the U.S. Court of Appeals for the Federal Circuit. (See *Allied Signal Aerospace Co.* v. *United States*, 996 F.2d 1185 (Fed. Cir. 1993); see also *Krupp Stahl, AG et al.* v. *United States*, 822 F. Supp. 789 (CIT 1993).)

In this investigation, the two respondents refused to cooperate by failing to respond to the Department's questionnaire. Therefore, in accordance with our standard practice, the Department has assigned the highest margin in the petition to both respondents. The assigned BIA margin is the same margin that was assigned for the preliminary determination.

Fair Value Comparisons

To arrive at the BIA margin referred to above, we compared United States price (USP) to foreign market value (FMV) as reported in the petition. See Initiation of Antidumping Duty Investigation of Oil Country Tubular Goods Pipe from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain (59 FR 37962, July 26, 1994).

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act 19 U.S.C. 1673b(d)(1), we directed the Customs Service to suspend liquidation of all entries of OCTG from Japan, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after February 2, 1995.

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below, for entries of OCTG from Japan that are entered, or withdrawn from warehouse, for consumption from the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Nippon Steel Corporation	44.20
Sumitomo Metal Industries, Ltd	44.20
All Others	44.20

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in this investigation of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: June 19, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 95–15619 Filed 6–27–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–580–825]

Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 1995.

FOR FURTHER INFORMATION CONTACT: Brian C. Smith or John Beck, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1766 or (202) 482–3464, respectively.

Final Determination:

The Department of Commerce (the Department) determines that oil country tubular goods (OCTG) from Korea are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

Since the January 26, 1995, preliminary determination (60 FR 6507, February 2, 1995), the following events have occurred.

On February 3, 1995, we issued a supplemental questionnaire to Hyundai Steel Pipe Company, Ltd. (HSP). We received HSP's response on February 27, 1995.

In March 1995, we conducted the sales and cost verifications in Houston, Texas, and Seoul, Korea. We issued the verification reports in April 1995. On May 2 and May 3, 1995, HSP and the petitioners submitted their case briefs, respectively. On May 10, 1995, both parties submitted their rebuttal briefs. A public hearing was held on May 16, 1995.

Scope of Investigation

For purposes of this investigation, OCTG are hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or

non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

After the publication of the preliminary determination, we found that HTSUS item numbers 7304.20.10.00, 7304.20.20.00, 7304.20.30.00, 7304.20.40.00, 7304.20.50.10, 7304.20.50.50, 7304.20.60.10, 7304.20.60.50, and 7304.20.80.00 were no longer valid HTSUS item numbers. Accordingly, these numbers have been deleted from the scope definition.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1994, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Best Information Available

In accordance with section 776(c) of the Act, we have determined that the use of best information available (BIA) is appropriate for sales of OCTG by Union Steel Manufacturing Company (Union). Given that Union did not respond to the Department's questionnaire, we find that it has not cooperated in this investigation.

In determining what to use as BIA, the Department follows a two-tiered methodology whereby the Department normally assigns lower margins to those respondents who cooperate in an investigation, and margins based on more adverse assumptions for those respondents who do not cooperate in an investigation. If a respondent is non-cooperative, that respondent's final margin for the relevant class or kind of merchandise is the higher of either 1) the highest margin in the petition, or 2) the highest calculated margin of any respondent (see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany: Final Determination of Sales at Less Than Fair Value (54 FR 18992, 19033, May 3, 1989)). The Department's two-tier methodology for assigning BIA based on the degree of the respondents' cooperation has been upheld by the U.S. Court of Appeals for the Federal Circuit. (See *Allied-Signal Aerospace Co.* v. *the United States*, 996 F.2d 1185 (Fed. Cir. 1993); see also *Krupp Stahl AG. et al.* v. *the United States*, 822 F. Supp. 789 (CIT 1993).

In this investigation, Union refused to cooperate by failing to respond to the Department's questionnaire. Therefore, in accordance with our standard practice, the Department has assigned the highest margin in the petition to Union. The assigned BIA margin is the same margin that was assigned for the preliminary determination.

Such or Similar Comparisons

We have determined for purposes of the final determination that the OCTG covered by this investigation comprises a single category of "such or similar" merchandise within the meaning of section 771(16) of the Act. All comparisons of U.S. to third-country [1] sales involved identical merchandise.

Fair Value Comparisons

To determine whether HSP's sales of OCTG from Korea to the United States were made at less than fair value, we compared United States price (USP) to foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We calculated USP according to the methdology described in our preliminary determination, with the following exceptions as a result of verification:

1. We removed two types of bank charges from the U.S. indirect selling expense calculation and treated them as a direct expense; we included a third type of bank charge in the indirect selling expense calculation (see Comment 7).
2. We recalculated U.S. and non-U.S. indirect selling expenses;
3. We recalculated inventory carrying costs using HSP's revised cost data and the appropriate interest rates (see Comment 6).
4. We recalculated foreign brokerage and handling expenses.
5. We deducted a related party's interest charge from USP (see Comment 8).

Foreign Market Value

As stated in the preliminary determination, we found that the home market was not viable for sales of OCTG and based FMV on sales to Canada.

Cost of Production (COP) Analysis

As we indicated in our preliminary determination, the Department initiated an investigation to determine whether HSP's sales in Canada were made below their COP. In order to determine whether the third-country prices were below the COP, we calculated the COP based on the sum of HSP's reported cost of materials, fabrication, general expenses, and packing, in accordance with 19 CFR 353.51(c). We did not add duties paid on the coil to the cost of manufacture (COM)(see Comment 3). We made the following adjustments to HSP's COP data:

1. We increased the material costs relating to the settlement received for the purchase of defective coil. We adjusted the settlement amount to account for only that portion that was pertinent to production of the subject merchandise during the POI (see Comment 10);
2. We increased the general and administrative expenses to exclude income and expenses resulting from investment activities of the company (see Comment 11); and
3. We increased the COM to reflect the allocation of overhead on the basis of actual hours rather than standard hours (see Comment 12).

After computing COP, we compared product-specific COP to reported third-country prices that were net of movement charges and direct and indirect selling expenses.

[1] The home market in this case is not viable. Sales to Canada are being used as the basis for FMV and the cost of production analysis.

Results of COP Analysis

In accordance with section 773(b) of the Act, we followed our standard methodology as described in the preliminary determination to determine whether the third country sales of each product were made at prices below their COP.

Based on this methodology, we found that none of HSP's Canadian sales were at prices below the COP.

Third Country Price Comparisons

For third country price to U.S. price comparisons, we calculated FMV according to the methodology described in our preliminary determination, with the following exceptions as a result of verification:

1. We recalculated foreign brokerage and handling expenses.
2. We recalculated U.S. and non-U.S. indirect selling expenses by removing antidumping legal expenses from HSP's calculation.
3. We recalculated inventory carrying costs using HSP's revised cost data and the appropriate interest rates (see Comment 6).
4. We recalculated Canadian credit expenses (see Comment 8).

Currency Conversion

Pursuant to 19 CFR 353.60, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we verified the information used in making our final determination.

Comment 1—Interested Party Comments: Whether Best Information Available (BIA) Is Appropriate for HSP Based on Transaction-Specific Data Arguments

The petitioners argue that the verification report findings and the record evidence demonstrate that the respondent should have reported vessel-specific (*e.g.*, transaction-specific data) instead of POI average charges and adjustments for its U.S. sales during the POI. In summary, the petitioners maintain that: (1) The respondent was asked for transaction-specific information; (2) the respondent stated that such data would be impossible to provide; (3) the Department verified that the respondent could provide such data; (4) the respondent provided such information at verification; and (5) the transaction-specific data the respondent provided at verification differs from the POI average figures submitted prior to verification. The petitioners maintain that because the respondent could have reported transaction-specific information but failed to do so, the respondent has been uncooperative, significantly impeding the investigation and casting doubt on the reliability of its questionnaire response. The petitioners argue that since the respondent ignored the questionnaire requirement to report transaction-specific information, the Department should resort to the application of adverse BIA.

The respondent maintains that its calculation of weighted-average POI movement expenses for its U.S. sales was reasonable because: (1) It cannot always trace the actual product from Korea to a sale because it does not have access to the records of the stockyard (*e.g.*, an unrelated party) where it stores its OCTG prior to sale; (2) the tracing method outlined in the verification report for determining transaction-specific movement expense data is not always accurate; and (3) sales-specific tracing would have been unduly burdensome. Moreover, the respondent points out that the difference between the transaction-specific movement expenses reviewed at verification and the weighted-average movement expenses reported is *de minimis*. Therefore, the respondent maintains that the Department should accept its movement expense allocation methodology.

DOC Position

We agree with the respondent. We have accepted HPA's average expense reporting methodology because (1) it is representative and non-distortive of transaction-specific data; and (2) it would be contrary to our practice to require an unrelated party that is not a party subject to this proceeding (*i.e.*, the stockyard) to provide information. We disagree with the petitioners that HPA has been uncooperative, that it has significantly impeded the investigation, or that it misled or made misrepresentations to the Department.

The Department's preference is for a respondent to report transaction-specific sales information unless a respondent can demonstrate that doing so is overly burdensome or that its alternative methodology is representative and non-distortive of transaction-specific sales information. (In this case, transaction-specific information is equivalent to vessel-specific information.) HSP's U.S. subsidiary, HPA, maintained from the outset of this investigation that it could not report transaction-specific movement expenses for its sales of OCTG made during the POI because its accounting system does not contain such information. At verification, this statement was clarified to mean that HPA could not physically trace the OCTG through its sales documentation from the vessel, through the stockyard (which is an unrelated party), and then to the ultimate U.S. customer. Though HPA uses stock numbers to record movement of OCTG to and from the stockyard and on sales documentation sent to its U.S. customers, we have determined that HPA used the stock numbers simply as a technique to account for the OCTG it sent to its stockyard (an unrelated party) prior to release to its customers, and for determining what portion of unsold OCTG remained at the stockyard. At no time after HPA had the OCTG delivered to the stockyard from the U.S. port of entry did HPA retain records which would allow it to physically account for the movement of the OCTG from the stockyard to the first unrelated customer.

While the stockyard is required by the American Petroleum Institute (API) to be able to trace, at any time, any piece of OCTG released to HPA's first unrelated customer back to the specific production run, such information could not be confirmed from HPA's accounting system or sales documentation. Only the stockyard's records would likely contain the information to link the actual OCTG removed from a given vessel to an actual HPA sale. However, because the stockyard is an unrelated party to HPA, that information was not obtainable. HPA is therefore correct when it states that its records cannot physically trace the OCTG from the vessel to the customer. For this reason, we do not find that HPA sought to impede the investigation by not providing such data. Thus, the issue of whether it was burdensome for HPA to report transaction-specific information is moot.

Finally, after an analysis of business proprietary data and our findings at verification, we have determined that HPA's methodology of reporting average POI movement expenses is non-distortive and representative of the expenses it incurred during the POI on sales of OCTG. The difference between the vessel-specific movement expenses we requested at verification and the weighted-average movement expenses reported is negligible.

Comment 2—Whether BIA Is Appropriate for HSP Based On Alleged Data Deficiency Arguments

The petitioners maintain that verification revealed several serious deficiencies in the respondent's questionnaire response. For example, the petitioners allege that the

respondent incorrectly included movement expenses, bank charges, and antidumping legal expenses in its indirect selling expenses and that there were serious discrepancies between actual production hours and the standard production hours used to allocate costs. The petitioners maintain that the corrections are so numerous and substantial that the data provided by the respondent is unusable, and argue, therefore, that the Department should assign the petition margin as BIA.

The respondent contends that every expense was verified, as the verification reports make clear. In addition, the respondent points out that it produced complete information which was entirely verified by the Department. Therefore, the respondent maintains that the Department should use its response in the final determination and not resort to BIA.

DOC Position

We agree with the respondent. We tested the respondent's sales databases and established that the errors mentioned above were inadvertent and relatively minor. The respondent either brought these errors to our attention, or we discovered them as a result of the respondent providing all requested information. We were able to correct these errors. The errors mentioned above were not ones which lead us to question the reliability of the response. These are the types of errors the Department generally encounters in a typical investigation and it is the Department's normal practice to correct such minor errors for purposes of its analysis and less-than-fair-value calculations. Therefore, we are using the respondent's response in the final determination and not resorting to BIA.

Comment 3—Exclusion of Duties from the COM

The respondent maintains that the Department must exclude duties paid from the COP and exclude duty drawback from the Canadian price because to do otherwise is contrary to Department practice. The respondent cites *Carlisle Tire & Rubber Co.* v. *United States*, 634 F.Suppl. 419, 424 (CIT 1986), and Final Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from the Korea (55 FR 32659, 32666, August 10, 1990) (Sweaters from Korea) in support of its argument.

The petitioners argue that it would be inappropriate to exclude duties from the COP because the drawback received on a majority of the Canadian sales is different from the duties HSP paid on the imported coil incorporated into the exported pipe.

DOC Position

We agree with the respondent. Our practice, as enunciated in Sweaters from Korea, is to calculate a COP exclusive of duties and compare this COP to a duty-exclusive price. Thus, the fact that there may be a difference between the amount of duty paid and the amount of drawback received is irrelevant because neither amount is used for purposes of the COP test involving third country sales. Consequently, other issues which relate to the duty calculation are moot.

Comment 4—Duty Drawback on U.S. Sales

The petitioners contend that the respondent should have calculated U.S. duty drawback using shipment-specific drawback data instead of the average drawback received on all shipments during the period July-December 1993. They further contend that such reporting would not have been burdensome because the respondent provided this information at verification. In addition, the petitioners assert that the respondent's averaging methodology was not reasonable because it does not accurately capture the correct universe of duty drawback received. Therefore, the petitioners request that the Department deny the allocated duty drawback adjustment to U.S. price.

The respondent maintains that in *Laclede Steel Co.* v. *United States*, Slip Op. 94–160 (CIT 1994) (*Laclede*), the CIT upheld HSP's drawback methodology which is virtually identical to the methodology HSP is using in this instant case. The respondent points out that based on *Laclede*, HSP is not required to perform sales-specific calculations of Korean duty drawback. Moreover, the respondent maintains that it cannot trace the amount of drawback received on a particular exportation of OCTG back to a particular imported coil upon which duty has previously been paid because of the very nature of the Korean drawback system. Additionally, the respondent contends that the issue of whether it would have been burdensome to provide transaction-specific data is irrelevant because there is no relationship between coil inputs to the OCTG exports. Finally, the respondent argues that its allocation methodology is reasonable because the amount of drawback assigned to each vessel bears no relationship to the sales that are made of the OCTG transported on that vessel.

DOC Position

We agree with the respondent. Contrary to the petitioners' assertions, we verified that HSP is unable to trace the amount of drawback received upon a particular exportation of OCTG back to a particular imported coil upon which duty has previously been paid because of the nature of the Korean drawback system. Specifically, the Korean duty drawback system is set up such that HSP is allowed to use a FIFO (first in first out) method in matching import permits for raw materials used to produce OCTG to export permits showing OCTG shipments. When it submits its application for duty drawback, HSP is not required by the Korean government to link the amount it paid in duty for a specific amount of imported coil to the OCTG it actually exported.

However, even if HSP were able to provide transaction-specific amounts for duty drawback, the *Laclede* decision is clear that a respondent is not required to report sales-specific calculations for duty drawback relating to sales in a particular market.

Regarding whether HSP's duty drawback allocation methodology is reasonable, we examined at verification alternative allocation methods HSP could have used. We determined, based on verification, that the methodology HSP selected reasonably allocated its duty drawback amounts and was non-distortive based on the following facts: (1) While HSP cannot determine on a sales specific basis which coil imported actually was used to produce a specific product for export, it can in general determine which coil was used to produce U.S.-destined OCTG and Canadian-destined OCTG; (2) HSP applies for duty drawback in the ordinary course of business by taking the oldest coil import permits and linking them to export permits so that it receives all of the drawback due to it; and (3) there was an insignificant difference between using HSP's method and using an alternative method based on the drawback received on OCTG sold during the POI. Regarding petitioners' request that the duty drawback amount be limited to the actual amount of duties included in CV and the COP, this issue is moot since we have excluded duties from the COP calculation and we are not resorting to CV as a basis for FMV.

Therefore, we are accepting the respondent's duty drawback allocation methodology because it is in accordance with the *Laclede* decision and Department practice.

Comment 5—Dual Prices for Identical Merchandise

The petitioners maintain that the respondent failed to adequately support its claim that it can and does charge two different prices to the same customer for the same product on the same day. Absent evidence to the contrary, the petitioners contend that the real reason for the change in prices may relate to differences in physical characteristics or to market conditions. The petitioners argue that if the Department is not going to resort to BIA, it may have to make a difference-in-merchandise or circumstance-of-sale adjustment.

The respondent maintains that the Department thoroughly examined this issue at verification and found no evidence that HPA charges different prices for the same product based on physical characteristics or market conditions. The respondent contends that the petitioners' statements on this issue are unsupported speculation and should be disregarded.

DOC Position

We agree with the respondent. At verification we examined invoices which contained different prices for the same product specification to the same customer. We found that, in fact, HPA will charge two different prices for identical product from the same stock number to the same customer on the same invoice. In looking at how the continuous negotiation process between HPA and its customers works (which is described in the ESP verification report), export documentation from Korea, and import documentation into the United States, we find no reason to suspect that HPA is mislabelling a product's physical characteristics in the invoice. Therefore, we have accepted HPA's reported prices and used them in our analysis.

Comment 6—U.S. Inventory Carrying Costs

HSP sells the OCTG to Hyundai Corporation (HC), a related party (also in Korea), which in turns sells the OCTG to Hyundai Pipe of America (HPA), HSP's U.S. subsidiary.

The petitioners maintain that when HSP calculated U.S. inventory carrying costs, it should have used the won-denominated interest rate applicable while the merchandise was in Korea and then used HC's interest rate before the merchandise entered HPA's inventory.

The respondent contends that the Federal Circuit's decision in *LMI-LaMetalli Industriale* v. *United States*, 912 F.2d 455 (1990), requires that HSP use its subsidiary's, HPA's, U.S. interest rate.

DOC Position

We agree with the petitioners. Respondent's use of the U.S. interest rate to calculate its inventory carrying costs is not in accordance with Department practice (see Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand (60 FR 10552, February 27, 1995), and the September 24, 1994, memorandum in that case from Susan Kuhbach, Director, Office of Countervailing Duty Investigations to Barbara R. Stafford, Deputy Assistant Secretary for Investigations). The Department's current practice is to use the interest rate denominated in the currency of the transaction.

A company selling in a given currency (such as sales denominated in dollars) is effectively lending to its purchasers in the currency in which its receivables are denominated (in this instance in won and dollars) for the period from shipment of its goods until the date it receives payment from its purchaser. Thus, when sales are made, and future payments are expected, in a given currency, the measure of the company's extension of credit should be based on an interest rate tied to the currency in which its receivables are denominated. This recognizes both the time value of money and the effect of currency fluctuations on repatriating revenue. Such an approach comports with the Federal Circuit's decision in *LMI-La Metalli*, wherein the court noted that "[i]f the cost of credit is imputed in the first instance to conform with commercial reality, it must be imputed on the basis of usual and reasonable commercial behavior." 912 F.2d at 461.

In this instance, HSP sold the merchandise in Korea to the Korean company HC in a won-denominated transaction. In turn, HC sold the merchandise to HPA, the U.S. affiliate, in a dollar-denominated transaction. Finally, HPA sold the merchandise to the first unrelated U.S. customer in a dollar-denominated transaction. Accordingly, we have used (1) the Korean interest rate during the period from production to HSP's sale of the merchandise; and (2) HPA's U.S. interest rate during the period it was held by HPA. For the period of time between HC's purchase of the merchandise and its sale of the merchandise to HPA, we have used an actual expense and not the imputed expense (see Comment 8 for a further discussion).

Comment 7—HPA's Bank Charges

The respondent maintains that the three types of bank charges which it included in its U.S. indirect selling expense calculation are not direct expenses because they cover shipments which include both OCTG and non-subject merchandise. Therefore, the respondent contends that the bank charges are not directly associated with individual products.

The petitioners maintain that the bank charges at issue are direct expenses for both OCTG and non-subject merchandise and can be attributed to specific shipments. Moreover, even though in some cases the charge must be allocated between OCTG and non-subject merchandise within a particular shipment, the charge is still a direct expense because it is a charge HPA incurs regardless of what product is sold.

DOC Position

We agree in part with the petitioners. The respondent incurs the following three types of bank charges on U.S. sales of OCTG: (1) Charges for opening a letter of credit (*e.g.*, L/C open commission); (2) charges for an analysis of its bank account (*e.g.*, account analysis charge); and (3) charges from the bank for checking the sales documents for HPA (*e.g.*, a negotiation commission). Based on our verification findings, it is clear that the account analysis charges are indirect selling expenses because they are not associated with the direct sale of OCTG. As for the L/C open commission, it is a telex charge for opening a letter of credit for each sale. Therefore, it is a direct selling expense. Regarding the negotiation commissions, these are expenses associated with the transfer of sales documentation from HC to HPA and are directly related to the sale of the subject merchandise, as well as non-subject merchandise, because these commissions are the fees that HPA's bank charges HPA for reviewing the sales documentation between HC and HPA. Moreover, HPA's bank determines the amount of the charge based on a percentage of the value of the merchandise. Therefore, we have included the account analysis charges as part of HPA's U.S. indirect selling expense calculation. However, we have removed the negotiation commissions and letter of credit fees from the indirect selling expense calculation and treated these as direct selling expenses. We allocated these direct expenses between the OCTG and the non-subject merchandise based on a percentage of the sales values between HC and HPA.

Comment 8—HC's Interest Charges

HSP reported that it "sells" the OCTG to HC, which in turn "sells" the OCTG to HPA, HSP's U.S. subsidiary. The respondent maintains that HC pays a certain percentage of the transfer price in interest charges to compensate the Korean bank for the time value of the money resulting from the time lag between the Korean bank's payment to HC and the payment to the Korean bank from the U.S. bank. HSP maintains that these interest charges to finance the internal movement within Hyundai of OCTG while in physical transit from Korea to the United States. Therefore, the respondent contends that, because HPA makes ESP sales out of its U.S. inventory, HC's interest charges cannot be associated with goods which are subject to a later sale.

The respondent contends that this interest charge calculated by HSP is duplicated by HPA's inventory carrying cost calculation and HSP's Canadian credit expense calculation because it compensates the Korean bank for the short delay in HC's receipt of payment under the letter of credit posted by HPA. The respondent also contends that this type of charge is included in HPA's indirect selling expenses and therefore must be removed from them. Otherwise, the respondent maintains that the Department is double counting this expense.

The petitioners maintain that the interest charges and inventory carrying costs must be fully and separately reported and deducted from U.S. price.

DOC Position

We agree in part with the respondent. Based on verification of HPA's ESP sales process, we have determined that HC's interest charges cannot be specifically traced to the U.S. sale of OCTG to the first unrelated customer. Therefore, this charge is clearly associated with the internal movement of the subject merchandise from Korea to the United States and not associated with a specific sale. Accordingly, we have treated this expense as an indirect selling expense in the final determination.

Regarding the respondent's claim that an imputed amount capturing the delay in payment must be deducted from inventory carrying expense and/or credit expense, HPA's bank will not pay HC's bank until HPA provides the shipment documents received after receipt of the OCTG from HC. Therefore, we find that the interest charge is associated with the delay in payment between HC's bank and HPA's bank and that this is a result of the time delay between when HC releases the OCTG and when HPA receives the OCTG. We find that the interest charge represents part of the inventory carrying expense calculation and does not represent an additional expense. Since the deduction of both this interest charge and the time during which the OCTG is in HC's inventory would represent double counting, we have removed the inventory days during which the OCTG is in HC's inventory from the inventory carrying expense calculation.

Regarding the respondent's claim that HC's interest charge amount must be deducted from HPA's indirect selling expenses, we disagree because HC's expenses are not captured in HPA's indirect selling expenses calculation.

Finally, regarding the respondent's claim that the interest charge (which is also incurred on Canadian sales of OCTG), is duplicated by HSP's Canadian credit expense calculation, HPA's bank will not pay HC's bank until the Canadian customer pays HPA and this transaction occurs after the customer receives the shipment documents. However, HC's bank will still pay HC based on the letter of credit opened by HPA, and HC's bank will charge HC an interest charge for the advance receipt of the value of the OCTG. Therefore, we find that the interest charge is an actual credit expense which is associated with receiving payment for the OCTG before the Canadian customer pays HPA for the OCTG. Although this interest charge does not cover the entire credit period (*e.g.*, shipment from Korea until HPA's receipt of payment from the Canadian customer), we have accounted for the additional credit period by imputing a credit expense which is based on the use of HPA's interest rate and the difference between HPA's and HC's sales prices of OCTG to the U.S. market.

Comment 9—Packing Expense

The petitioners contend that HSP has improperly applied its conversion factor to packing expenses. Specifically, the petitioners allege that since HSP allocated packing costs over the total tonnage of OCTG sold rather than produced, it was unnecessary to use a conversion factor to determine the expenses. The actual packing costs have already been allocated on a theoretical weight basis.

The respondent maintains that verification demonstrated that HSP allocated packing costs over the total actual volume of small pipe sales, and then applied a conversion factor to restate the costs on a nominal weight basis.

DOC Position

We agree with the respondent. We find that HSP did not use its conversion factor twice to determine its packing expenses. Verification demonstrated that HSP applied a conversion factor to the actual tonnage of OCTG produced to determine its packing costs. HSP used the quantity figures from its inventory ledger, (which record the actual tonnage), and not its sales ledger, as the basis for its packing expense allocation methodology. Therefore, we have accepted HSP's packing expense methodology.

Comment 10—Settlement Adjustment on Defective Coil Purchase

The petitioners argue that some of the coils on which HSP received settlement for defective material were consumed before the POI. Accordingly, the petitioners maintain that only the settlement revenue received by HSP and associated with coil consumed in the POI should be used to offset materials.

The respondent argues that it received all the settlement payment, which was to compensate HSP for defective material, during the POI, and that it should be offset against HSP's POI coil cost.

DOC Position

We agree with the petitioners. We found at verification that some of the defective material was used in production in 1993. The actual material cost for the POI equals the total net amount paid. This amount equals the amount paid on the material used during the POI, less the proportional amount of the settlement. In January 1994, HSP knew the amount it would receive and it knew the specific materials associated with the settlement. Therefore, we have adjusted the settlement amount for defective material to account for the production that occurred prior to the POI, and have considered only that portion of the settlement pertinent to production during the POI.

Comment 11—Adjustment of G&A Calculation

The petitioners argue that the gains and losses on investment securities and other investment related expense and income items should be excluded from the calculation of general and administrative (G&A) expenses. They contend that all non-operating items must be excluded from the SG&A calculation.

The respondent states the inclusion of investment related items is consistent with its financial statements.

DOC Position

We agree with the petitioners. The Department's practice has been not to include investment-related gains, losses and expenses in the calculation of G&A for purposes of COP or CV calculations. The Department's purpose in COP and CV situations is to determine the cost to produce the subject merchandise. The cost to produce the subject merchandise does not include unrelated production or investment activities. The Department accounts for investment activities which relate to financing a company's working capital as part of the financial expense. The financial expense is calculated on a consolidated company-wide basis. Therefore, we have recalculated G&A expenses by excluding HSP's company-wide investment related items.

Comment 12—Allocation Based on Standard Vs. Actual Hours for Overhead

The petitioners argue that the respondent, by using standard hours rather than actual hours for the allocation of overhead, has miscalculated the allocation of actual costs between subject and non-subject merchandise. The petitioners further argue that if the overhead costs cannot be recalculated on the basis of actual hours, then the submitted cost data should be rejected.

The respondent argues that in Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From the Republic of Korea (57 FR 42942, September 17, 1992) (Circular Pipe), the Department did not question the use of standard hours as the basis for the allocation of fabrication costs, only depreciation and G&A expenses. The respondent states that, in the instant case, the standard hours approximate the actual hours which were provided at verification. In any event, the respondent provided actual hours.

DOC Position

We agree with the petitioners. The Department's strong preference is to use actual costs for purposes of calculating COM whenever possible. See Final Determination of Sales at Less Than Fair Value: Fresh Chilled Atlantic Salmon from Norway (58 FR 37915, July 14, 1993). After a thorough review of Circular Pipe, it is clear that neither party raised the issue regarding the use of standard hours. Since HSP reported actual hours and we verified these hours, we applied the actual hours to the actual variable and fixed overhead costs to calculate the COM.

Comment 13—Double Use of Conversion Factor

The petitioners argue that HSP has applied the conversion factor which converts the costs of production from an actual to nominal basis, twice: First to material costs and then to total COP and CV. The petitioners maintain that this action causes costs to be understated.

The respondent states that it applied the conversion factor only once at the end of the total cost calculation.

DOC Position

We agree with the respondent that the conversion factor was applied only once. An examination of the cost verification exhibits show that the conversion factor was applied once to the actual material costs to derive the nominal material costs which were then converted to nominal terms. Thus, we agree with the respondent that no adjustment has to be made.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act (19 USC 1673b(d)(1)), we directed the Customs Service to suspend liquidation of all entries of OCTG from Korea, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after February 2, 1995.

The Customs Service shall require a cash deposit or posting of a bond equal to the estimated dumping margin, as shown below for entries of OCTG from Korea that are entered, or withdrawn from warehouse, for consumption from the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Producer/manufacturer/exporter	Margin percentage
Hyundai Steel Pipe Company, Ltd	00.00
Union Steel Manufacturing Company	12.17
All Others	12.17

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in this investigation of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20.

Dated: June 19, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–15620 Filed 6–27–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–201–817]

Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 1995.

FOR FURTHER INFORMATION CONTACT: John Beck or Jennifer Stagner, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3464 or (202) 482–1673, respectively.

Final Determination:

Department of Commerce (the Department) determines that oil country tubular goods (OCTG) from Mexico are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination on January 26, 1995, (60 FR 6510, February 2, 1995), the following events have occurred.

In March and April 1995, the Department verified the cost and sales questionnaire responses of Tubos de Acero de Mexico, S.A. (TAMSA).

Verification reports were issued in April and May, 1995. On May 9 and 16, 1995, the interested parties submitted case and rebuttal briefs, respectively. TAMSA submitted revised sales and cost tapes that corrected clerical errors discovered at verification on May 18 and 23, 1995. A public hearing was held on May 19, 1995.

Scope of Investigation

For purposes of this investigation, OCTG are hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

After the publication of the preliminary determination, we found that HTSUS item numbers 7304.20.10.00, 7304.20.20.00, 7304.20.30.00, 7304.20.40.00, 7304.20.50.10, 7304.20.50.50, 7304.20.60.10, 7304.20.60.50, and 7304.20.80.00 were no longer valid HTSUS item numbers. Accordingly, these numbers have been deleted from the scope definition.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1994, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Such or Similar Comparisons

We have determined for purposes of the final determination that OCTG covered by this investigation comprises a single category of "such or similar" merchandise within the meaning of section 771(16) of the Act. Where there were no sales of identical merchandise in the third country [1] to compare to U.S. sales, we made similar merchandise comparisons on the basis of the characteristics listed in Appendix V of the Department's antidumping questionnaire. We made adjustments, where appropriate, for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

Fair Value Comparisons

To determine whether TAMSA's sales of OCTG from Mexico to the United States were made at less than fair value, we compared the U.S. price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We calculated USP according to the methodology described in our preliminary determination, with the following exceptions:

1. We applied the net financial expense of the consolidated parent to the further manufacturing costs of the related U.S. company, Texas Pipe Threaders (TPT).
2. We made deductions from gross unit price for movement variances that represent the difference between the accrual and actual movement costs.
3. We recalculated inventory carrying cost for the inventory time in the United States using a U.S. interest rate, in accordance with the Department's practice to use the interest rate applicable to the currency of the transaction (see Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand (60 FR 10552, February 27, 1995)).

Foreign Market Value

As stated in the preliminary determination, under 19 CFR 353.48, we found that the home market was not viable for sales of OCTG and based FMV on sales to Saudi Arabia. During the course of this investigation the petitioner questioned the legitimacy of certain transactions made by TAMSA to the Saudi Arabian market. The Department closely examined these transactions at verification and found no reason to alter its decision to use Saudi Arabia as the appropriate market for determining FMV (see Comment 1 in the "Interested Party Comments" section of this notice).

Cost of Production Analysis

Based on information contained in the petitioner's allegation that TAMSA is selling OCTG in Saudi Arabia at prices below its cost of production (COP), the Department initiated a COP investigation for the Saudi Arabian sales of TAMSA, under 19 CFR 353.51. This COP investigation was initiated on December 22, 1994. Because TAMSA submitted its cost information on February 1, 1995, which was after the preliminary determination, the Department was unable to use this information for purposes of the preliminary determination.

In order to determine whether the third-country prices were below the COP, we calculated the COP based on the sum of TAMSA's reported cost of materials, fabrication, and general expenses, in accordance with 19 CFR 353.51(c). After computing COP, we compared product-specific COP to reported third-country prices, net of movement charges and direct and indirect selling expenses. We accepted TAMSA's COP data, with the following exceptions:

1. We revised TAMSA's financing expense rate to reflect the first two quarters of 1994 consolidated results (see Interested Party Comment 6).
2. We revised costs for TAMSA's allocation methodology for fixed costs and variances based on standard cost (see Interested Party Comment 7).
3. We revised TAMSA's general and administrative (G&A) expenses to reflect 1994 unconsolidated results (see Interested Party Comment 8).

Results of COP Analysis

Under our standard practice, when we find that less than 10 percent of a

[1] The home market in this case is not viable. Sales to Saudi Arabia are being used as the basis for foreign market value and cost of production analysis.

company's sales are at prices below the COP, we do not disregard any below-cost sales because that company's below-cost sales were not made in substantial quantities. When we find between 10 and 90 percent of the company's sales are at prices below the COP, and the below-cost sales are made over an extended period of time, we disregard only the below-cost sales. When we find that more than 90 percent of the company's sales are at prices below the COP, and the sales were made over an extended period of time, we disregard all sales for that product and calculate FMV based on constructed value (CV), in accordance with 773(b) of the Act.

In accordance with section 773(b)(1) of the Act, in order to determine whether below-cost sales were made over an extended period of time, we compare the number of months in which below-cost sales occurred for each product to the number of months of the POI in which that product was sold. If a product was sold in three or more months of the POI, we do not exclude below-cost sales unless there were below-cost sales in at least three months of the POI. When we find that all sales of a product only occurred in one or two months, the number of months in which the sales occurred constitutes the extended period of time; *i.e.*, where sales of a product were made in only two months, the extended period of time is two months, where sales of a product were made in only one month, the extended period of time is one month (see Preliminary Results and Partial Termination of Antidumping Duty Administrative Review: Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan (58 FR 69336, 69338, December 10, 1993)).

Following the above type of analysis, we determine that sales below cost were in substantial quantities over an extended period of time, and that there were no remaining sales above cost. Accordingly, we compared USP to CV.

Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of TAMSA's cost of materials, fabrication, general expenses, and profit. In accordance with section 773(e)(1)(B)(i) and (ii) of the Act, we included in CV: (1) TAMSA's revised general expenses because they were greater than the statutory minimum of ten percent of the COM, and (2) for profit, the statutory minimum of eight percent of the sum of COM and general expenses because it was greater than the actual profit, as calculated on a market-specific basis.

We made the same adjustments to TAMSA's reported CV data as to TAMSA's COP data, as described above.

For CV to U.S. price comparisons, we made deductions from CV, where appropriate, for the weighted-average third country direct selling expenses, in accordance with 19 CFR 353.56. We also deducted the weighted-average third country indirect selling expenses. We limited this adjustment by the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

Currency Conversion

Because certified exchange rates for Mexico were unavailable from the Federal Reserve, we made currency conversions for expenses denominated in Mexican pesos based on the official monthly exchange rates in effect on the dates of the U.S. sales as published by the International Monetary Fund, in accordance with 19 CFR 353.60(a).

Verification

As provided in section 776(b) of the Act, we verified the information used in making our final determination.

Interested Party Comments

Comment 1: Date of Sale Methodology and Home Market Viability.

The petitioner argues that the date of shipment, rather than the date of purchase order, is the appropriate date of sale for all home market transactions. It notes that the Department verified that TAMSA had home market sales that were shipped prior to TAMSA receiving an order, and that this was not revealed prior to verification. The petitioner contends that in Final Determination of Sales at Less Than Fair Value: Certain Forged Stainless Steel Flanges from India (58 FR 68853, December 29, 1993), the Department found significant discrepancies between a company's response and the randomly selected documents and, thus, determined that the response had not been verified. It also notes that in the Final Results of Administrative Review of Roller Chain, Other Than Bicycle, from Japan (Roller Chain from Japan) (54 FR 3099, January 23, 1989), the Department used the shipment date as the date of sale since orders were taken by phone and generally shipped before issuance of the sales documentation.

The petitioner further argues that the home market becomes viable when the date of shipment serves as the date of sale. Because TAMSA did not report home market sales, the Department should therefore reject TAMSA's third country sales and use the best information available (BIA) in its final determination. Because the Department has previously recognized that the misreporting of the date of sale warrants the use of BIA, the petitioner asserts that the Department should use the highest margin provided in the petition, 45.22 percent, as BIA (see Final Determination of Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Mexico (58 FR 37192, July 9, 1993) and Final Determinations of Sales at Less Than Fair Value: Calcium Aluminate Cement, Cement Clinker and Flux from France (59 FR 14136, March 25, 1994)).

TAMSA contends that the Department verified the actual volume and value of TAMSA's home market and third country sales and the basis for the non-viability determination. It argues that the reported date of sale methodology was appropriate because the purchase order date is the date when all substantive terms of sale are finalized.

TAMSA argues that there were a few pre-order shipments in the POI, and those were the result of an "aberrational" request by the customer for shipment before the customer issued the written order. It asserts that the Department verified that shipment before receipt of an order is against company policy and is unusual. TAMSA argues that, in the rare instance where shipment occurred prior to the order, it properly reported the date of shipment as the date of sale pursuant to the Department's instructions and precedent that the date of sale cannot be later than the date of shipment.

DOC Position

We agree with TAMSA. The Department generally defines the date of sale as the date when all substantive terms of the sale, particularly price and quantity terms, are agreed to by interested parties (see Final Determination of Sales at Less Than Fair Value: Certain Forged Steel Crankshafts from the United Kingdom (52 FR 18992, July 28, 1987)). At verification, we thoroughly examined TAMSA's home market sales process, including numerous sales documents, and found that the price and quantity terms did not change between the date of the purchase order and the date of shipment.

Furthermore, Roller Chain from Japan is not applicable to this investigation because, in that investigation, the Department revised the date of sale because most sales were taken over the phone and shipped prior to the issuance of a purchase order. We verified that, in its home market, TAMSA normally ships merchandise after receipt of a

purchase order and found that, only rarely, were sales shipped prior to receipt of the purchase order.

Thus, based on our findings at verification, we determine that the date of purchase order is the appropriate date of sale, except when date of shipment occurred prior to the purchase order, which occurred rarely. In those instances, date of shipment was the appropriate date of sale. TAMSA, therefore, properly reported its POI sales.

Comment 2: Cancellations.

The petitioner asserts that, in the instances where purchase orders were received prior to the shipment date, a substantial number of those purchase orders in Mexico were cancelled. The petitioner contends that TAMSA erred in its reconciliation of its reported sales to its financial statements at verification because the pre-shipments cancelled orders would not have been recorded as shipments in the financial statements, thus, arguing that TAMSA must have sold and shipped this merchandise during the POI prior to issuing the unexplained cancellations.

In 64K Dynamic Random Access Memory Components from Japan: Final Determination of Sales at Less Than Fair Value (DRAMs from Japan) (51 FR 15943, April 29, 1986), the Department determined that no binding agreement had been entered into as of the purchase order date (because there were significant cancellations) and found that the appropriate date of sale was the shipment date since this was the earliest point in the transaction at which any sort of binding commitment could be inferred. The petitioner thus argues that the purchase order does not constitute a binding commitment between the parties; and, consequently, the Department should find that the shipment date represents the date of sale as it did in DRAMs from Japan.

Moreover, the petitioner contends that if the Department accepts the order date as the basis for determining home market sales and if the Department disallows post-petition credit memos and order cancellations, the home market was viable during the POI. It notes that disallowing post-petition credit memos and order cancellations is consistent with the Department's policy of not allowing rebates which are instituted retroactively after the filing of a petition (see Antidumping Manual and Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Antidumping Duty Investigation of Color Negative Photographic Paper from Japan (59 FR 16177, April 6, 1994)).

TAMSA argues that the invoice cancellations did not affect the terms of the purchase order and had no contractual significance. TAMSA states that the amounts in question represent credit memos, corrections to the booking and invoicing processes, or cancelled invoices, not cancellations in the orders, and that they had no effect on the quantity ordered.

TAMSA asserts that DRAMs from Japan does not support the petitioner's date of sale argument. In that investigation, the Department determined that neither party to the purchase order intended it to be a binding agreement or treated it as such. TAMSA argues that this situation does not apply to its home market sales process because the customer's order constitutes the binding sales agreement between the parties, and the Department found there were no changes in the sales terms from the order date to the invoice date. Thus, its date of sale methodology is correct.

DOC Position

We agree with TAMSA. At verification, we found that these "cancellations" were, for the most part, changes to invoices (e.g., correcting for a wrong shipment date) or were credit memoranda; they were not similar to post-petition rebates as the petitioner claims.

DRAMs from Japan is inapposite because, in that case, the respondent argued that it did not normally acknowledge purchase orders, but instead stated that its normal acceptance of an order occurs when the order is actually shipped. Furthermore, the Department found, in that case, in addition to cancellations by both parties, that there were frequent price revisions.

At verification, we thoroughly examined TAMSA's sales process and found that the purchase order is the binding agreement; the terms did not change between the order date and the shipment date. Thus, we determine that the order date, when used as the basis for date of sale, was appropriate.

Comment 3: Possible Exclusion of a Certain Saudi Arabian Transaction.

The petitioner argues that a certain Saudi Arabian transaction should be excluded because the date of sale was misreported and incorrectly included in the POI. Because the essential terms of sale, specifically the payment terms, for this transaction were not fixed on the reported date of sale, the Department should determine that the date of sale is outside the POI. The petitioner notes that it is the Department's policy to determine the date of sale to be the date on which all substantive or material terms of sale are agreed upon by the parties (see Antidumping Manual). In Roller Chain from Japan, the Department found that the shipping documents were the first written evidence of the merchandise, price, quantity, and payment terms and, therefore, determined that the shipment date was the appropriate date of sale.

The petitioner also contends that its claim is supported by Mexican Commercial Law and notes that the Department has recognized that this type of foreign contract law analysis is relevant in determining when a sale occurs for the purposes of the antidumping laws (see DRAMs from Japan).

TAMSA argues that the verification report acknowledged that the purchase order by the Saudi customer is the "culmination of the negotiating process," establishing the essential terms of sale, which did not change between order and shipment. It argues that communications between the parties between the quote and the order normally are not referenced in the order, and that it is "not unusual for negotiation during this period to take place."

In addition, TAMSA contends that the Department verified that the customer's order constitutes the contract between the parties and that before the order is issued (including the time between bid and order), the parties may conduct negotiations. Since the purchase order is the earliest date of agreement between the parties on the terms of sale, the purchase order date is the proper date of sale.

TAMSA states that the Department normally finds that the purchase order constitutes the date of sale, focusing on the intent of the parties to be bound by the order (see Final Determination of Sales at Less Than Fair Value: Certain Small Business Telephone Systems and Subassemblies Thereof from Taiwan (54 FR 42543, October 17, 1989)). TAMSA notes that, in Notice of Final Determination of Sales at Less Than Fair Value: Disposable Pocket Lighters from the People's Republic of China (60 FR 22359, May 5, 1995), the Department considered the date of sale to be the date on which all substantive terms of sale (normally price and quantity) are agreed to by the parties, and that, in Roller Chain from Japan, the Department found that payment terms are not an essential term of sale.

In DRAMs from Japan, TAMSA maintains that the Department based its date of sale determination on the intent of the parties. TAMSA argues that the opinion by the Mexican lawyer on

Mexican law provided by the petitioner omitted the fact, which the Department verified, that between the quotation and the order there were additional negotiations on the key sales terms in the order, and that the action of the parties illustrate an intent by the parties to contract on the order date.

DOC Position

We agree with TAMSA. The issue regarding the price and quantity differences between the quotation and purchase order was argued extensively by the parties and was examined thoroughly by the Department at verification. At verification, the Department found no written evidence of changes in the sales terms after the purchase order.

The Department normally considers the essential terms of sale to be price and quantity. We believe that, in this case, the term of payment is not an essential term of sale because the terms of payment are similar for all of TAMSA's sales to Saudi Arabia. Furthermore, at verification, the Department examined all relevant sales documentation of the transaction, including the quotation, purchase order, invoices, and letters of credit. We did not find any discrepancies with the documentation. Thus, we are not excluding this transaction from our analysis.

Comment 4: Whether a Certain Saudi Arabian Transaction Was Made Outside the Ordinary Course of Trade.

The petitioner argues that a certain Saudi Arabian transaction should be excluded because it was made outside the ordinary course of trade (i.e., was not made under normal conditions and practices). It cites to Final Determination of Sales at Less Than Fair Value: Sulfur Dyes, including Sulfur Vat Dyes, from the United Kingdom (Sulfur Dyes from the U.K.) (58 FR 3253, January 8, 1993) to support its argument.

TAMSA argues that this Saudi Arabian transaction was consistent with its terms and processes for all of its other Saudi Arabian transactions; thus, it was made in the ordinary course of trade. At verification, the Department examined documentation for the reported Saudi sales and confirmed that they were made with a large, unrelated customer. TAMSA further asserts that the Department verified sales prior and subsequent to the POI, and found that the transaction in question was consistent with the terms and process for other Saudi Arabian sales.

TAMSA argues that this Saudi Arabian transaction was consistent with its practice for other Saudi Arabian transactions. TAMSA argues that the actions of the parties illustrate that the purchase order finalizes the sales terms and concludes the sale; specifically, once it receives an order, it secures a letter of credit guaranteeing payment and begins production based on the terms in the order. Although after the order there are no further contractual communications between the parties until shipment and invoicing, the customer plans and arranges for delivery and payment, and there are no changes to the terms of sale between order and shipment, which TAMSA argues was verified by the Department as the common practice for all Saudi sales.

In Sulfur Dyes, TAMSA maintains that the Department found a sale to be outside the ordinary course of trade because it was larger than other sales and was made at a lower price pursuant to a special agreement. Because the transaction in question was similar to other Saudi Arabian transactions, TAMSA argues that Sulfur Dyes is not applicable to this investigation.

DOC Position

We agree with TAMSA. Under 19 CFR 353.46(b), in determining whether a sale was made in the ordinary course of trade, the Department considers the "conditions and practices" which have been normal in the trade of the subject merchandise. At verification, we found no abnormalities in the sales terms as compared to other Saudi Arabian sales. We also verified that the procedures followed in this transaction were consistent with the procedures in other Saudi Arabian transactions. Regarding the delivery time, we do not believe that differences in average time between order and shipment is evidence that the sales were outside the ordinary course of trade. The shipments were made within the period stipulated in the purchase order.

Furthermore, Sulfur Dyes from the U.K. does not apply to this investigation because the sales terms of the transaction in question are not significantly different than the sales terms of TAMSA's other Saudi Arabian transactions. For these reasons, we are not excluding this sale from our analysis.

Comment 5: Possible Extension of the POI.

The petitioner argues that the Department's decision not to extend the POI to capture TAMSA's sales in the home market contradicts the antidumping statute and regulations. The statutory and regulatory provisions establish a preference for the home market as the basis for FMV, and permits the Department to use third country sales data or constructed value only if it has determined that home market sales are small with respect to third country sales.

The petitioner notes that the Department's regulations state that it can extend the POI "for any additional or alternative period" that it determines is appropriate. The Department has extended the POI in prior proceedings where the six-month period "did not adequately reflect the sales practices of the firms subject to the investigation" (see Preliminary Determination of Sales at Not Less Than Fair Value: Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor from Hong Kong (Thermostats from Hong Kong) (53 FR 50064, December 13, 1988) and Notice of Final Determination of Sales at Less Than Fair Value: Defrost Timers from Japan (59 FR 1928, January 13, 1994)). If the Department expanded the POI an additional six months, TAMSA's home market sales would be viable.

TAMSA argues that the Department's preference for the home market simply means that it should look first to home market prices, and only select alternatives when the home market is not viable. TAMSA asserts that the Department has already determined that the home market is not viable in its November 3, 1994, memorandum from Richard W. Moreland to Barbara R. Stafford. *SKF USA, Inc.* v. *United States*, 762 F. Supp. 344, page 352 (CIT 1991) acknowledged that "as home market sales are the statutorily preferred choice for comparison in FMV calculations, the ITA cannot use third country sales without first making a definitive determination that the home market is not viable" (see also *U.H.F.C. Co.* v. *United States*, 916 F.2d 689, page 696 (Fed. Cir. 1990)).

TAMSA further asserts that the cases cited by the petitioner concern long-term contracts and U.S. and third country sales and do not involve the extension of the POI solely to change home market viability, thus, arguing that those cases do not apply to this investigation.

DOC Position

We agree with TAMSA. According to 19 CFR 353.42(b), the POI will normally include the month in which the petition is filed and the five months prior to the filing of the petition, but the Department has the discretion to examine any other period which it concludes is appropriate.

The Department has previously expanded the POI. In Thermostats from Hong Kong, the home market sales were

inadequate and the Department expanded the POI in order to base FMV on third country sales rather than on constructed value. In Defrost Timers from Japan, the Department extended the POI to include a long-term contract. However, the Department has never extended the POI to change the home market viability ratio.

This investigation is unlike Thermostats from Hong Kong and Defrost Timers from Japan because we have determined that sales to Saudi Arabia is the appropriate basis for calculating FMV and there are no sales made pursuant to long-term contracts.

According to 19 CFR 353.48(a), if the quantity of the subject merchandise sold in the home market is so small in relation to the quantity sold for exportation to third countries (normally less than five percent of the amount sold to third countries) that it is an inadequate basis for FMV, the Department will calculate FMV based on third country sales or constructed value.

We have verified TAMSA's reported home market and third country sales volumes and have determined that the home market is not viable during the POI because the home market sales were less than five percent of sales to countries other than the United States.

For these reasons, we are not extending the period of investigation.

Comment 6: Appropriate Financial Expense.

The petitioner argues that the 1994 financial statements were critically important to this investigation and TAMSA systematically withheld these statements from the Department. The petitioner further asserts that the 1994 financial statements were undeniably available at the time of verification. As proof of this, the petitioner submitted, with its case brief, TAMSA's 1994 financial statements filed with the Mexican securities oversight agency and the Mexico Stock Exchange prior to the completion of verification. The petitioner argues that TAMSA refused to provide 1994 financial statement information because it reflected considerably higher costs than the amounts reported in the submission which were based on 1993 results.

Therefore, the petitioner contends that the Department must use uncooperative BIA in this situation. The petitioner argues that as BIA the COP and CV interest expense should be based on the interest costs of 95 percent from TAMSA's 1994 consolidated financial statements without any adjustment for the extraordinary costs associated with the devaluation of the Mexican currency.

TAMSA asserts that it has fully cooperated with the Department's requests for financial statements. TAMSA refutes the Department's cost verification report, claiming that company officials did not state that 1994 financial statements would be available at a particular time. TAMSA notes that the unaudited, unconsolidated trial balance was presented at the cost verification. At the further manufacturing verification, TAMSA presented a press release which provided summarized unaudited 1994 financial results. Thus, TAMSA contends, it has provided accurate responses to the Department's requests. TAMSA argues that the Department should follow its practice and rely on the most recently available audited financial statements, which in this case would be the 1993 statements, to calculate financial and general and administrative (G&A) expenses. TAMSA notes that in the final determination of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from Thailand (Furfuryl Alcohol from Thailand) (60 FR 22557, May 8, 1995) the Department used the most recent fiscal year for which the respondent had complete and audited financial statements. TAMSA further argues that the dramatic devaluation in the Mexican currency reflected in the 1994 financial statements occurred well after the period of investigation and is not representative of the comparatively stable period experienced in 1993 and the first half of 1994. Finally, TAMSA believes that it would be arbitrary and unjustified to use BIA in this situation.

DOC Position

We agree, in part, with petitioner. In antidumping investigations, we require respondents to provide accurate responses to our requests for information. In this case, the record demonstrates that the Department requested TAMSA's 1994 financial statements. Although the financial statements were not available when TAMSA filed its initial responses to the Department's questionnaires, these statements did become available during the course of the investigation. Indeed, although unaudited, these financial statements were filed with the Mexican Securities Exchange. However, TAMSA failed to provide the 1994 financial data to the Department when it became available, even though the Department specifically requested the information at verification. We believe that a failure to be forthcoming with information during verification is a serious problem.

Section 776(c) of the Act states that the Department will use BIA "whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required" (see also 19 CFR 353.37). Accordingly, because TAMSA withheld information requested by the Department, the statute requires us to use BIA for this information.

As BIA, we calculated interest expense using TAMSA's financial statements for the first two quarters of 1994. The January—June 1994 financing expense is substantially higher than the 1993 amount, in part due to the fact that the Mexican peso lost approximately nine percent of its value during the POI. Our finding is adverse because the full effect of the change in the value of the currency that occurred during the POI is reflected in the cost of financing for the first two quarters of the fiscal year. Had it not been necessary to resort to BIA, our calculation methodology would have resulted in a lower financing expense.

However, contrary to petitioner's request, we have not calculated TAMSA's financial expense based on the annual statements for 1994 because (1) the sudden and severe devaluation in December 1994—a drop of over 50 percent in the value of the Mexican peso—makes TAMSA's annual financial results unrepresentative of the POI and severely distortive, and (2) the devaluation occurred well after the POI.

Thus, we reject TAMSA's request that we use 1993 financial data. This information is not the most current information available, is not indicative of the expenses incurred during the POI, and would reward the respondent for not fully cooperating in the investigation.

Finally, TAMSA's reliance on Furfuryl Alcohol from Thailand to support the use of financial expense from the 1993 audited financial statements is misplaced. In that case, respondents fully cooperated with respect to the Department's request for available information, unlike the situation in this investigation.

Comment 7: Allocation Methodology for Nonstandard Costs.

In its normal accounting system, TAMSA calculates, in total, the amount of the price variances, efficiency variance, total depreciation and other fixed costs. It does not normally allocate these costs to individual products. For financial statement purposes, TAMSA includes the total nonstandard costs in the cost of goods sold. For purposes of responding to the Department's questionnaire, TAMSA developed a methodology to allocate nonstandard costs to its submitted per unit COPs and

CVs based on machine time for a single process (the finishing line).

The petitioner argues that TAMSA's allocation methodology for variances, depreciation and other fixed costs (termed "nonstandard" costs) distorts actual production costs because it shifts overhead expenses to products which undergo more finishing. This allocation methodology may also shift costs to products purchased from Siderca S.A.I.C., a related entity, if TAMSA is finishing the Siderca-produced products. Furthermore, the relative finishing line time TAMSA used as the allocation basis for variances and fixed costs is the least accurate method for allocating these costs to specific products. The petitioner asserts that finishing costs are only a fraction of the costs incurred in other production processes. The differences resulting from the finishing process will have little or no relationship to product-specific cost differences in the other processes.

As a result, the petitioner argues that the Department should apply BIA. As BIA, the Department should allocate the costs on a per-ton basis over all production. The petitioner discounts the usage of standard costs as a basis for allocation since the major component of standard costs is materials.

TAMSA argues that machine time at the finishing line is the most appropriate basis for allocating nonstandard costs according to accounting theory. Production, and therefore costs, are dependent on the slowest machine in the entire production process. TAMSA asserts that the finishing line is the slowest process and argues that the alternative of allocating nonstandard costs on a per-ton basis ignores all differences in machine usage and physical differences between products. Similarly, it contends that allocating nonstandard costs based on standard costs would ignore the relationship of machine usage for physically different types of products.

DOC Position

We agree with the petitioner that TAMSA's allocation methodology for fixed costs and variances distorts actual production costs because it shifts overhead expenses to products which undergo more finishing. The basic premise that machine time can be a reasonable and appropriate allocation basis for depreciation costs is well substantiated in both accounting (Davidson & Weil, Handbook of Cost Accounting, Prentice Hall, 1978) and Departmental practice (Final Determination of Sales at Less Than Fair Value; Steel Wire Rope from Korea (58 FR 11029, February 23, 1993)). However, TAMSA did not rely on total machine time as the basis for allocation. Instead, TAMSA based its allocation on the standard time for only one production step, the finishing line. Thus, TAMSA's allocation basis did not reflect the machine time for other processes performed. TAMSA's methodology allocated more than just depreciation expenses based on the finishing line time. It also allocated material and energy price variances, efficiency variance, and other fixed costs on the basis of standard finishing line. TAMSA's chosen allocation methodology ignored the cost drivers for the price variances, efficiency variance and other fixed costs. These costs are not driven by machine time, as they are more closely associated with material and transformation costs. For these reasons, machine time is not the appropriate allocation basis for costs other than depreciation.

The petitioner's recommendation of allocating nonstandard costs on a per-ton basis would allocate the same nonstandard cost to each ton produced. This type of allocation would not accurately reflect the processes needed to produce each product, or the differences in the machine time and labor hours for each product. Similarly, it does not capture the specific costs of the materials required to produce different products.

The petitioners argument against using standard cost as the allocation basis for the variances and fixed costs because a large part of the standard costs is material cost is unfounded. The variances being allocated include material price and material efficiency variances. Therefore, the appropriate cost driver for the material variances (materials) is included in the standard costs.

We have used total standard cost as the appropriate allocation basis for the nonstandard costs. Total standard cost factors in machine time, labor hours, direct and indirect material cost and usage, labor cost and usage, energy cost and usage, other variable costs, maintenance, and other services. Therefore, we revised the COP and CV to include nonstandard costs as a percent of total standard costs.

Comment 8: Calculation of G&A Expenses.

TAMSA submitted G&A expenses based upon 1993 financial statements. The petitioner argues that TAMSA should have used G&A expenses from its 1994 financial statements since they encompass the POI. Further, the petitioner argues that the Department should base G&A expenses on BIA because TAMSA has systematically withheld its 1994 consolidated financial statements from the Department (see complete discussion at Comment 6). As BIA, the petitioner recommends that the Department rely on the reported amounts in the company's consolidated 1994 financial statements which were filed with the Mexican securities oversight agency.

TAMSA refutes the petitioner's arguments saying it has fully cooperated with all Department requests. TAMSA asserts that the different format and form of the information filed on the public record with the U.S. and Mexican authorities and the time lag between publication in the United States and filing with the SEC has led to some confusion.

DOC Position

We agree, in part, with the petitioner that it is inappropriate to use the 1993 G&A expenses. (See DOC position regarding Comment 6.) We disagree with the petitioner, however, that BIA is appropriate because TAMSA provided us with the 1994 G&A information that the Department requested. As indicated in the questionnaire, it is the Department's standard practice to calculate G&A based on the financial statements of the producing company that most closely relates to the POI, which, in this investigation, is January 1, 1994 through June 30, 1994. Therefore, the appropriate financial statement for TAMSA's G&A calculation is TAMSA's unconsolidated 1994 financial statement. We used the 1994 G&A expenses from the unconsolidated producing entity.

All other comments concerning G&A are moot, as they concerned the calculation of G&A using the 1993 financial statements.

Comment 9: Depreciation Expenses.

The petitioner argues that TAMSA's reported depreciation expense was based on overstated useful lives and that TAMSA's appraised value of assets was less than the acquisition cost adjusted for inflation. Therefore, the petitioner argues that the submitted depreciation expense was understated. The petitioner contends that TAMSA's depreciation methodology is contradictory to U.S. practice and distorts the POI actual costs. The petitioner concludes that the Department should increase TAMSA's depreciation expense to reflect the difference between TAMSA's average useful life of all assets and its purported U.S. useful life.

TAMSA argues that its method of reporting depreciation expenses is consistent with Mexican GAAP. TAMSA argues that the petitioner has

not provided any evidence to support its assertion that Mexican GAAP distorts costs. The Department verified the asset values and useful lives at the cost verification and has accepted Mexican GAAP's treatment of assets in Porcelain-on-Steel Cooking Ware from Mexico; Final Results of Antidumping Administrative Review (Cooking Ware from Mexico)(60 FR 2378, January 9, 1995).

DOC Position

We agree with TAMSA. The Department has relied on the revaluations required by Mexican GAAP in other cases, such as Cooking Ware from Mexico. We made no adjustment for the useful life of the assets because there is no evidence that the lives used in the depreciation calculation were overstated. In fact, as reflected in the cost verification report, the Department reviewed the depreciation schedules and calculations and found them to be reasonable. Mexican GAAP requires an annual revaluation of assets. The annual revaluation was performed by an independent appraiser and it calculates the useful life remaining for depreciation expense calculation, and the valuation of the asset. Therefore, the petitioner's assertion that we should use the asset life as prescribed for U.S. income tax depreciation as a surrogate for the asset life determined by the independent appraiser is unfounded.

Comment 10: Periodic Maintenance and Shut-Down Costs.

The petitioner argues that TAMSA's reported costs fail to capture the variance associated with the actual shutdown costs.

The Department should increase the nonstandard costs for the difference between the POI efficiency variance and the entire year efficiency variance. It claims that, since the actual shutdown occurs in August, the appropriate efficiency variance is the annual variance; not the POI variance as used by TAMSA.

TAMSA argues that it properly captured the periodic maintenance and shut-down costs for the POI. TAMSA argues that its accrual for repair and maintenance in the POI was carefully established through a thorough analytical process over a series of months and was approved by plant engineers and management.

DOC Position

We agree with TAMSA. TAMSA accrues a monthly amount for the annual shutdown which occurs in August. The difference between the accrued shutdown expenses and the actual expenses was captured in the efficiency variance. There is no evidence on the record indicating any difference between the accrued and actual plant shutdown costs. The actual expenses for the annual shutdown could be either higher or lower than the accrued amount. The efficiency variance includes elements other than the difference between accrued and actual shutdown costs. It also reflects all other variances in efficiency. The petitioner's argument to use the annual efficiency variance to capture the variance in shutdown costs would have the effect of capturing other variances that did not relate to production in the POI.

Comment 11: CV Interest Offset.

The petitioner asserts that TAMSA improperly included raw materials and semi-finished products and non-customer accounts receivables in the CV interest offset. The petitioner argues that the Department should revise the CV interest offset for the final determination.

TAMSA did not comment on this issue.

DOC Position

We agree with the petitioner. TAMSA's calculation of the CV interest offset was in error. As part of the Department's normal methodology, we allow only finished goods inventory and customer accounts receivable as an offset to CV interest expense. This offset avoids double counting interest expense captured in the imputed inventory carrying cost and the imputed credit expense. We revised the CV financial expense ratio to reflect only the finished goods inventory and the customer accounts receivable as an offset.

Comment 12: Rental Payments in Further Manufacturing Costs.

The petitioner argues that TAMSA's related company which performs further manufacturing in the United States, TPT, reduced its general expenses by net rental income received from Siderca Corp. The petitioner contends that this is inappropriate and the income should be removed.

TAMSA disagrees with the petitioner's assertion and clarifies that the gross rental payments received by TPT are net rental income in excess of expenses. In addition, TAMSA argues that the rental income is directly offset by rent expenses reported on the books of Siderca Corp. TAMSA argues that the petitioner's request would overstate expenses by recognizing the rental expense as a selling expense and by not recognizing the offsetting rental revenue as a reduction to further manufacturing G&A.

DOC Position

We agree with TAMSA. The Department verified that the rental payments made by Siderca are reflected as a selling expense on its books. The depreciation, utilities, taxes, and other expenses associated with the rental property are reflected on TPT's books. If we disallowed the rental income offset, the expenses of the entities as a whole would be overstated.

Comment 13: Financial Expenses in Further Manufacturing Costs.

The petitioner argues that TAMSA failed to add financial expenses to the further manufacturing cost of unrelated companies. The petitioner argues that the consolidated interest expense of TAMSA should be applied to the amount charged to TAMSA by the unrelated further manufacturer.

TAMSA argues that it properly reported the amount charged by the unrelated further manufacturers. The fee it was charged includes an amount for financial expense, because it must be assumed that the unrelated further manufacturer charges an amount that would cover all of its costs, including financial costs. TAMSA also argues that it properly included the financial expenses of TIC and Siderca Corp. as selling expenses and TPT's financial expense as a further manufacturing cost on merchandise processed by TPT.

DOC Position

We agree with TAMSA. We verified that TAMSA included the amount charged by the unrelated further manufacturers in its submitted costs. This fee includes financing and G&A costs incurred by the unrelated further manufacturer. If we added TAMSA's financing costs to the costs reported for the unrelated company, we would be burdening an arm's-length transaction with inappropriate costs. For products further manufactured by TPT, TAMSA included TPT's G&A, and we added the consolidated parents financial expense, pursuant to the Department's practice (see Final Determination of Sales at Less Than Fair Value: New Minivans from Japan (57 FR 21937, May 26, 1992)).

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margins, as shown below for entries of OCTG from Mexico that are entered, or withdrawn from warehouse, for consumption from the date of publication of this notice in the Federal Register. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Tubos Acero de Mexico, S.A.	23.79
All Others	23.79

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 75 days of the publication of this notice, in accordance with section 735(b)(3) of the Act. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in this investigation of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: June 19, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-15621 Filed 6-27-95; 8:45 am]

BILLING CODE 3510-DS-P

[A-469-806]

Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Spain

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 1995.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or William Crow, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-4162 or 482-0116, respectively.

Final Determination

We determine that oil country tubular goods (OCTG) from Spain are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination of sales at less than fair value in this investigation on January 26, 1995 (60 FR 6516, February 2, 1995), the following events have occurred. On February 8, 1995, (60 FR 8632, February 15, 1995) the Department postponed the final determination in accordance with section 735(a)(2) of the Act and 19 CFR 353.20(b)(1).

In March 1995, the Department conducted its sales and cost verifications of the respondent, Tubos Reunidos ("TR") in Spain. Verification reports were issued in April and May 1995.

On May 9, 1995, the petitioners and TR submitted case briefs. Rebuttal briefs were submitted by both parties on May 16, 1995. On May 17, 1995, the Department held a public hearing.

Scope of the Investigation

For purposes of this investigation, OCTG are hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

After the publication of the preliminary determination, we found that HTSUS item numbers 7304.20.10.00, 7304.20.20.00, 7304.20.30.00, 7304.20.40.00, 7304.20.50.10, 7304.20.50.50, 7304.20.60.10, 7304.20.60.50, and 7304.20.80.00 were no longer valid HTSUS item numbers. Accordingly, these numbers have been deleted from the scope definition.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1994, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Best Information Available (BIA)

We have determined that TR's questionnaire responses provide an inadequate basis for estimating dumping margins. At verification, we discovered significant omissions, discrepancies, and a large number of errors in TR's responses, as well as an overall lack of support for certain of TR's sales data. Instead of reporting the actual prices charged to the first unrelated U.S. customers, as requested by the Department, TR incorrectly reported the U.S. prices invoiced to its related subsidiary, and failed to provide adequate support documentation at verification for the actual prices invoiced to the U.S. customers. TR omitted reporting all charges in the U.S. market for freight, guarantee and return credits and did not provide adequate support documentation at verification for these charges. TR also omitted reporting the sale of certain OCTG products, and provided no evidence at verification that the sales of these products were not covered by the scope of this investigation. In its responses, TR stated that its home market was not viable with respect to the sale of the

subject merchandise. However, the sales of certain OCTG products discovered at verification indicate a viable home market, thereby making the use of a third country market, instead of the home market as a basis for determining foreign market value, questionable. Finally, in addition to the significant omissions, the charges and adjustments reported by TR were replete with discrepancies and errors, making it impossible for the Department to conduct a complete verification of TR's responses.

In order to determine whether sales are made in the United States at less than fair value, it is critical that the Department be provided with accurate and reliable sales information to be used in its analysis. Because of the inaccuracies discovered in TR's submitted information, the Department was unable to verify that information, as required by section 776(1) of the Act. That section of the Act provides that, if the Department is unable to verify, within the time specified, the accuracy and completeness of the factual information submitted, it shall use BIA as the basis for its determination. Consequently, we have based this determination on BIA.

In determining what rate to use as BIA, the Department follows a two-tiered BIA methodology, whereby the Department may impose the most adverse rate upon those respondents who refuse to cooperate or otherwise impede the proceeding, or assign a lower rate for those respondents who have cooperated in an investigation. When a company is determined to be uncooperative, it has been the Department's practice to apply the highest rate alleged in the petition as BIA. When a company is determined to be cooperative, it has been the Department's practice to apply as BIA the higher of: (1) The average of the margins in the petition; or (2) the calculated margin for another firm for the same class or kind of merchandise from the same country. This methodology for assigning BIA has been upheld by the U.S. Court of Appeals for the Federal Circuit. (See *Allied-Signal Aerospace Co.* v. *the United States*, Slip Op. 93–1049 (Fed Cir. June 22, 1993); see also *Krupp Stahl AG. et al* v. *the United States*, Slip Op. 93–84 (CIT May 26, 1993).)

In spite of the numerous errors in its response, we have determined that TR was cooperative during this proceeding and have assigned to it a cooperative BIA margin of 11.95 percent, based on the average of the margins alleged in the petition. For further information on the use of a cooperative BIA margin, see the "DOC Position" section of this notice.

Verification

As provided in section 776(b) of the Act, we attempted to verify TR's information for purposes of the final determination. However, given the significant discrepancies encountered at verification, the use of the respondent's information in the final determination was not possible.

Interested Party Comments

Comment 1—Use of Total Uncooperative BIA

The petitioners maintain that because of the gravity of the mistakes made by TR, the Department should assign to TR an uncooperative BIA margin of 18.6 percent. They point to the verification report which shows that TR failed to report the actual price as invoiced to the first unrelated U.S. customer, and note that many other discrepancies and omissions were found by the Department at verification.

TR maintains that the record clearly reflects that it has cooperated fully with the Department in this investigation, submitting hundreds of pages of responses to the Department questionnaires and supplemental questionnaires within the time allowed. According to the respondent, due to the tight time constraints of antidumping investigations, a number of errors have been made, many of which came to light in preparing documentation for verification. TR maintains that it promptly and fully disclosed the errors to the Department as soon as the respondent became aware of such errors.

Moreover, TR contends that only following receipt of the verification outline on March 7, 1995, did TR's officials, in the course of preparing the payment documentation for verification, see the need to refer to the actual invoices re-issued by TR America, inclusive of the inland freight. TR maintains that, even if it had realized the need earlier to report to the Department the actual invoiced prices inclusive of the U.S. inland freight expenses, it would not have changed the way in which the sales listing was ultimately prepared. TR states that, in order to be able to provide a timely response to the Department's questionnaire, it was necessary to report sales data as it was reflected in TR's computer in Spain. Furthermore, TR argues that it was appropriate not to report sales of class "C" OCTG and couplings stock because these products are not covered in the scope of the investigation. Finally, TR claims that the errors and discrepancies discovered for the remaining sales data are insignificant and offset each other. Therefore, the respondent requests that the Department use the information gathered at verification as a basis for TR's margin calculation in the final determination.

DOC Position

As discussed in the BIA section of this notice, the discrepancies found in TR's response render it unusable. The Department, however, disagrees with the petitioners on assigning TR a non-cooperative BIA margin. Although much of the information found to be deficient could not be remedied at verification, TR made a good faith effort by responding to the Department's questionnaire, by submitting a verifiable cost of production questionnaire response, and by attempting to cooperate at the sales verification. We also believe that the inaccuracy of TR's responses is the result of inadvertent errors in its reporting, and poor verification preparation, not a lack of cooperation on the part of the respondent. Thus, we believe that assigning TR a cooperative BIA margin is appropriate.

Because this final determination is based on BIA, all other comments are moot.

Suspension of Liquidation

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below for entries of OCTG from Spain that are entered, or withdrawn from warehouse, for consumption from the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Producer/manufacturer/exporter	Margin percentage
Tubos Reunidos S.A	11.95
All Others	11.95

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 75 days of the publication of this notice, in accordance with section 735(b)(3) of the Act. If the ITC determines that material injury or threat of material injury does not exist,

the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or canceled. However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in this investigation of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)) and 19 CFR 353.20.

Dated: June 19, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–15622 Filed 6–27–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–475–817]

Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods ("OCTG") From Italy

AGENCY: Import Administration, International Trade Administration. Department of Commerce.

EFFECTIVE DATE: June 28, 1995.

FOR FURTHER INFORMATION CONTACT: Peter Wilkniss, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0588.

Final Determination

The Department determines that benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Italy of OCTG. For information on the estimated net subsidies, please see the *Suspension of Liquidation* section of this notice.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994. References to the Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments, 54 FR 23366 (May 31, 1989) (Proposed Regulations), which has been withdrawn, are provided solely for further explanation of the Department's CVD practice.

Case History

Since the publication of the preliminary determination in the **Federal Register** (59 FR 61870, December 2, 1994), the following events have occurred.

On December 23, 1994, we aligned the final countervailing duty determination in this investigation with the final determination in the companion antidumping investigation of OCTG from Italy (59 FR 66295).

We conducted verification of the responses submitted on behalf of the Government of Italy ("GOI"), and Dalmine S.p.A. ("Dalmine") from January 22 through January 27, 1995.

On April 19, 1995, we postponed the final determination in this case to June 19, 1995 (60 FR 19571).

On May 2, 1995 we received a case brief from respondent. Neither petitioner nor respondent requested a hearing in this investigation.

Scope of Investigation

For purposes of this investigation, OCTG are hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

After the publication of the preliminary determination, we found that HTSUS item numbers 7304.20.10.00, 7304.20.20.00, 7304.20.30.00, 7304.20.40.00, 7304.20.50.10, 7304.20.50.50, 7304.20.60.10, 7304.20.60.50, and 7304.20.80.00 were no longer valid HTSUS item numbers. Accordingly, these numbers have been deleted from the scope definition.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Injury Test

Because Italy is a "country under the Agreement" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission ("ITC") is required to determine whether imports of OCTG from Italy materially injure, or threaten material injury to, a U.S. industry. On August 3, 1994, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is being materially injured or threatened with material injury by reason of imports from Italy of the subject merchandise (59 FR 42286, August 17, 1994).

Corporate History of Respondent Dalmine

Prior to its liquidation in 1988, Finsider S.p.A. ("Finsider") was the holding company for all state-owned steel companies in Italy, including Dalmine. Dalmine was an operating company wholly owned by Finsider. After Finsider's liquidation, a new government-owned holding company, ILVA S.p.A. ("ILVA"), was created. ILVA took over the former Finsider companies, among them Dalmine, which became a subsidiary of ILVA in 1989 when Finsider's shareholding in Dalmine was transferred to ILVA.

Between 1990 and 1993, Dalmine itself was radically restructured. Dalmine became a financial holding company, with industrial, trading, and service shareholdings. As part of its restructuring, Dalmine made several asset purchases, sold two of its subsidiaries to private parties, and closed several manufacturing facilities. As of December 31, 1993, the Dalmine Group consisted of a holding company (Dalmine S.p.A.), four wholly-owned, and one majority-owned, manufacturing

companies, and a number of sales and service subsidiaries.

During the POI, ILVA was owned by the Istituto per la Ricostruzione Industriale ("IRI"), a holding company which was wholly-owned by the GOI.

Spin-offs

In its questionnaire response, Dalmine reported that between 1990 and 1991, as part of its overall restructuring process, the company twice sold "productive units" to private buyers. According to Dalmine, these sales involved facilities that do not produce the subject merchandise. In the preliminary determination, we determined that the amount of potentially spun-off benefits was insignificant. We did not learn anything at verification that would lead us to reverse this determination. Therefore, we have not reduced the subsidies allocated to sales of the subject merchandise. (See Final Concurrence Memorandum dated June 19, 1995).

Equityworthiness

Petitioner has alleged that Dalmine was unequityworthy in 1989, the year it received an indirect equity infusion from the GOI, through ILVA S.p.A. ("ILVA"), and that the equity infusion was, therefore, inconsistent with commercial considerations.

In accordance with § 355.44(e)(1) of the Proposed Regulations (Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments ("Proposed Regulations"), 54 FR 23366, May 31, 1989)), we preliminarily determined that ILVA's purchase of Dalmine's shares was consistent with commercial considerations because Dalmine provided evidence that private investors, unrelated to Dalmine or the GOI, purchased a significant percentage of the 1989 equity offering, on the same terms as ILVA. We did not learn anything at verification that would lead us to reverse this finding. Therefore, the Department determines that ILVA's purchase of Dalmine's shares was consistent with commercial considerations.

Creditworthiness

Petitioner has alleged that Dalmine was uncreditworthy in every year between 1979 and 1993. In accordance with § 355.44(b)(6)(i) of the *Proposed Regulations*, we preliminarily determined that Dalmine was creditworthy from 1979 to 1993. In making this determination we examined Dalmine's current, quick, times interest earned, and debt-to-equity ratios, in addition to its profit margin. Specifically, although a number of the financial indicators are weak for certain years, none of the indicators are weak over the medium or long term, and when examined together on a yearly basis, the indicators support the determination that Dalmine was creditworthy in every year examined. (See also Creditworthy Memorandum, November 18, 1994). In addition, Dalmine received long-term, commercial loans from private lenders in several of the years examined.

We did not learn anything new at verification that would lead us to reconsider our preliminary determination. Therefore, we continue to find that Dalmine was creditworthy from 1979 to 1993.

Benchmarks and Discount Rates

Dalmine did not take out any long-term, fixed-rate, lire-denominated loans in any of the years of the government loans under investigation. Therefore, in accordance with § 355.44(b)(4) of the *Proposed Regulations*, in our preliminary determination we used, as the benchmark interest rate, the Bank of Italy reference rate which was determined in Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Italy ("Certain Steel from Italy"), 58 FR, 37327 (July 9, 1993), to be both the best approximation of the cost of long-term borrowing in Italy and the only long-term fixed interest rate commonly available in Italy. We also used this rate as the discount rate for allocating over time the benefit from non-recurring grants for the same reasons as explained in Final Affirmative Countervailing Duty Determination: Certain Steel Products from Spain, 58 FR 37374, 37376 (July 9, 1993).

At verification, we learned that the Bank of Italy reference rate reflects the cost for Italian banks to borrow long-term funds. Therefore, the reference rate does not incorporate the mark-up a bank would charge a corporate client when making a long-term loan. Long-term corporate interest rate data is not available in Italy. Accordingly, we have adjusted the reference rate used in the preliminary determination upward to reflect the mark-up an Italian bank would charge a corporate customer.

In order to approximate this mark-up, we calculated the difference between the average short-term corporate borrowing rate in Italy and the average interest rate on short-term Italian government debt, for each year in which Dalmine received long-term lire loans or non-recurring grants from the government. We then added this mark-up to the Italian reference rate used in the preliminary determination to approximate an average long-term corporate benchmark interest rate. We also used these rates as the discount rates for allocating over time the benefit from non-recurring grants. See Certain Steel Products from Spain, 58 FR at 37376.

For long-term loans denominated in other currencies, we used, as the benchmark interest rate, an average long-term fixed interest rate for loans denominated in the same currency. (See section E—Article 54 Loans below.)

Calculation Methodology

For purposes of this determination, the period for which we are measuring subsidies (the POI) is calendar year 1993. In determining the benefits received under the various programs described below, we used the following calculation methodology. We first calculated the benefit attributable to the POI for each countervailable program, using the methodologies described in each program section below. For each program, we then divided the benefit attributable to Dalmine in the POI by Dalmine's total sales revenue, as none of the programs was limited to either certain subsidiaries or products of Dalmine. Next, we added the benefits for all programs, including the benefits for programs which were not allocated over time, to arrive at Dalmine's total subsidy rate. Because Dalmine is the only respondent company in this investigation, this rate is also the country-wide rate.

Based upon our analysis of the petition, the responses to our questionnaires, verification, and comments by interested parties, we determine the following:

I. Programs Determined to be Countervailable

A. Benefits Provided under Law 675/77

Law 675/77 was enacted to bring about restructuring and reconversion in the following industrial sectors: (1) Electronic technology; (2) the manufacturing industry; (3) the agro-food industry; (4) the chemical industry; (5) the steel industry; (6) the pulp and paper industry; (7) the fashion sector; and (8) the automobile and aviation sectors. Law 675/77 also sought to promote optimal exploitation of energy resources, and ecological and environmental recovery.

A primary goal of this legislation was to bring all government industrial assistance programs under a single law in order to develop a system to replace indiscriminate and random public intervention by the GOI. Other goals

were (1) to reorganize and develop the industrial sector as a whole; (2) to increase employment in the South; and (3) to maintain employment in depressed areas. Among other measures taken, the Interministerial Committee for the Coordination of Industrial Policy ("CIPI") was created as a result of Law 675/77. CIPI approves individual projects in each of the industrial sectors listed above.

Six main programs were provided under Law 675/77: (1) Interest contributions on bank loans; (2) mortgage loans provided by the Ministry of Industry at subsidized interest rates; (3) interest contributions on funds raised by bond issues; (4) capital grants for projects in the South; (5) personnel retraining grants; and (6) VAT reductions on purchases of capital goods by companies in the South. Dalmine reported that it received benefits under items (1), (2), and (5) above.

In its response, the GOI asserts that the steel and automobile industries did not receive a "disproportionate" share of benefits associated with interest contributions when the extent of investment in those industries is compared to the extent of investment in other industries. However, in keeping with past practice, we did not consider the level of investment in the the individual industries receiving benefits under Law 675/77. Instead, we followed the analysis outlined in Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel from Italy (Grain-Oriented Electrical Steel), 59 FR 18357 (April 18, 1994), and Final Affirmative Countervailing Duty Determination: Certain Steel Products from Brazil, 58 FR 37295, 37295 (July 9, 1993), of comparing the share of benefits received by the steel industry to the collective share of benefits provided to other users of the programs.

According to the information provided by the GOI, of the eight industrial sectors eligible for benefits under Law 675/77, the two dominant users of the interest contribution program were (1) the Italian auto industry which accounted for 34 percent of the benefits, and (2) the Italian steel industry which accounted for 33 percent of the benefits. Likewise, with respect to the mortgage loans, the two dominant users were the auto and steel industries which received 45 percent and 31 percent of the benefits, respectively.

In light of the above evidence, we determine that the steel industry was a dominant user of both the interest contribution and the mortgage loan programs under Law 675/77. (See section 355.43(b)(2)(iii) of the Proposed Regulations). Therefore, we determine that benefits received by Dalmine under these programs are being provided to a specific enterprise or industry or group of enterprises or industries. On this basis, we find Law 675/77 financing to be countervailable to the extent that it is granted on terms inconsistent with commercial considerations.

Under the interest contribution program, Italian commercial banks provided loans to industries designated under Law 675/77. The interest owed by the recipient companies was partially offset by interest contributions from the GOI. Dalmine received bank loans with interest contributions under Law 675/77 which were outstanding in the POI.

Because the GOI interest contributions were automatically available when the loans were taken out, we consider the contributions to constitute reductions in the interest rates charged, rather than grants (see Certain Steel from Italy at 37335).

At verification, we established that Dalmine had repaid each of the loans it received under this program in June 1994. We further found that Dalmine had not yet received a portion of the interest contributions originally owed to it by the GOI under this program, due to delays in GOI approval of several Dalmine internal asset transfers. Finally, we established that Dalmine had paid interest on each of the loans during the loan grace periods, contrary to what Dalmine reported in its questionnaire responses.

Dalmine argues that the GOI terminated the subsidized loan portion of this program in 1982, and that Dalmine repaid each of the loans in June 1994, after the POI, but before the publication of the preliminary determination. Consequently, Dalmine contends, no further benefits can accrue to Dalmine under this program. Therefore, according to Dalmine, the Department should, in accordance with the Department's policy to take program-wide changes into account in setting the duty deposit rate, set Dalmine's deposit rate for this program to zero.

Contrary to Dalmine's assertion, we determine that the termination of the subsidized loan portion of this program does not constitute a program-wide change as defined in § 355.50(b)(1) of the *Proposed Regulations*. Specifically, although Dalmine has repaid the loans it received under the program, there could be other Italian companies with loans that are still outstanding. Therefore, despite termination of the program in 1982, there may still be residual benefits under the program. Under our program-wide change policy, the change at issue cannot be limited to individual firms. Consequently, we determine that the "termination" of the subsidized loan portion of this program does not constitute a program-wide change. See Final Affirmative Countervailing Duty Determination and Countervailing Duty Orders; Certain Welded Carbon Steel Pipe and Tube Products From Argentina (Argentine Pipe), 53 FR 37619 (September 27, 1988); § 355.50(b)(1) of the *Proposed Regulations*.

Alternatively, Dalmine claims that the Department should recalculate the benefits under this program to reflect the delayed receipt of GOI interest contributions, as well as Dalmine's payment of grace period interest.

With respect to the grace period, we have adjusted our calculations to reflect that Dalmine paid interest during that time, as established at verification. However, we are treating the interest contributions as countervailable on the date Dalmine made the corresponding interest payments, despite any delay in receipt by Dalmine. This is because Dalmine's entitlement to the interest contributions was automatic when it made the interest payments. Thus, we find, for purposes of benefit calculation, that the interest contributions were received at the time the interest payments were made. See Steel Wire Nails from New Zealand, 52 FR 37196 (1987).

Under the mortgage loan program, the GOI provides long-term loans at subsidized interest rates. Dalmine received financing under this program which was outstanding in the POI.

To determine whether these programs conferred a benefit, we compared the effective interest rate paid by Dalmine to the benchmark interest rate, discussed above. Based on this comparison, we determine that the financing provided under these programs is inconsistent with commercial considerations, i.e., on terms more favorable than the benchmark financing.

To calculate the benefit from these programs, we used our standard long-term loan methodology as described in § 355.49(c)(1) of the *Proposed Regulations*. We then divided the benefit allocated to the POI for each program by Dalmine's total sales in 1993. On this basis, we determine the net subsidy from these programs to be 0.46 percent ad valorem for all manufacturers, producers, and exporters in Italy of the subject merchandise.

With respect to retraining grants provided to Dalmine under Law 675/77, it is the Department's practice to treat

training benefits as recurring grants. (See Certain Steel General Issues Appendix at 37226). Since the only grant reported under this program was received by Dalmine in 1986, any benefit to Dalmine as a result of this grant cannot be attributed to the POI. Therefore, we determine that retraining benefits provided under Law 675/77 conferred no benefit to Dalmine during the POI.

B. Grants Under Law 193/84

According to the GOI, Articles 2, 3, and 4 of Law 193/84 provide for subsidies to close steel plants. As stated in Art. 20 of Law N. 46 of 17/2/1982, steel enterprises, including enterprises producing seamless pipes, welded pipes, conduits and welded pipes for water and gas, are the recipients of these subsidies. As benefits under this program are limited to the steel industry, we determine that Law 193/84 is *de jure* specific and, therefore, countervailable.

At verification, we found that Dalmine received an additional benefit under this program not reported in its questionnaire responses. We have included this additional benefit in our calculation of the benefits received by Dalmine under this program.

To calculate the benefit during the POI, we used our standard grant methodology (see § 355.49(b) of the Proposed Regulations). We then divided the benefits attributable to Dalmine under Law 193/84 in the POI by Dalmine's total sales. On this basis, we determine the estimated net subsidy to be 0.81 percent *ad valorem* for all manufacturers, producers, and exporters in Italy of the subject merchandise.

C. Exchange Rate Guarantee Program

This program, which was enacted by Law 796/76, provides exchange rate guarantees on foreign currency loans from the European Coal and Steel Community ("ECSC") and The Council of European Resettlement Fund ("CER"). Under the program, repayment amounts are calculated by reference to the exchange rate in effect at the time the loan is agreed upon. The program sets a ceiling and a floor on repayment to limit the effect on the borrower of exchange rate changes over time. For example, if the lire depreciates five percent against the DM (the currency in which the loan is taken out), borrowers would normally find that they would have to repay five percent more (in lire terms). However, under the Exchange Rate Guarantee Program, the ceiling would act to limit the increased repayment amount to two percent. There is also a floor in the program which would apply if the lire appreciated against the DM. The floor would limit any windfall to the borrower.

In Grain-Oriented Electrical Steel, the Department found this program to be not countervailable because of incomplete information regarding the specificity of the program. The Department stated that, because the determination was reached while lacking certain important information, the finding of non-countervailability would not carry over to future investigations.

In this investigation, information provided by the GOI shows that the steel industry received 25% of the benefits under the program. Furthermore, at verification, we found that in the years Dalmine took out loans on which it received exchange rate guarantees under this program, the steel industry received virtually all the benefits under the program. Based on this information, the Department determines that the steel industry was a dominant user of exchange rate guarantees under Law 796/76 and, thus, that benefits received by Dalmine under this law are being provided to a specific enterprise or industry or group of enterprises or industries. (*See* § 355.43(b)(2)(iii) of the *Proposed Regulations*). Therefore, we determine that the exchange rate guarantees offered under the program are countervailable to the extent they are provided on terms inconsistent with commercial considerations.

Dalmine provided information that it could have purchased an exchange rate guarantee from commercial sources. However, Dalmine's information pertained to 1993, not to the period when the government guarantees were provided. The GOI's response indicates that commercial exchange rate guarantees were not available in 1986, the year in which the loans and the guarantees were received. Therefore, we determine the benefit to be the total amount of payments to Dalmine made during the POI by the GOI. (Because the amount the government will pay in any given year will not be known until that year, benefits can only be calculated on a year-by-year basis.) We divided the GOI's payments in 1993 by Dalmine's 1993 total sales. On this basis, we determine the estimated net subsidy from this program to be 0.20 percent ad valorem for all manufacturers, producers, and exporters in Italy of the subject merchandise.

II. Programs Determined To Be Not Countervailable

A. 1988/89 Equity Infusion

In November 1989, Dalmine completed an equity rights offering which allowed existing shareholders to purchase 7 new shares for every 10 shares they already owned. The new shares were offered at a price of LIT 300 per share. At that time, ILVA owned 81.7 percent of Dalmine's equity, with the remaining 18.3 percent owned by private investors. Pursuant to the rights offering, ILVA subscribed to its full allotment of the new shares issued. The remainder of the new shares were purchased by private shareholders. All shares were purchased at LIT 300 per share.

Petitioner argues that, although Dalmine's shares were nominally publicly traded, the vast majority of Dalmine shares were indirectly owned by the GOI and, therefore, shares were not purchased in adequate volume by private investors to establish a valid benchmark. Specifically, petitioner contends that, in 1991, ILVA owned 99.9 percent of Dalmine and, therefore, Dalmine's shares were in fact not publicly traded. Consequently, because essentially no private purchases were being made, the market price at the time of the equity infusion cannot serve as a valid benchmark. Furthermore, petitioner asserts that it is highly likely that the remaining shares not purchased by ILVA were purchased indirectly by the GOI through other holding companies.

In response to our questionnaire, Dalmine provided a list of all purchasers of shares in the 1989 offering. There was no evidence to indicate that the shares not purchased by ILVA were purchased by other government controlled or owned entities, as petitioner suggests. Moreover, the extent of ILVA's ownership in 1991 is not relevant to the choice of a benchmark for the equity investment in 1989.

Therefore, in our preliminarily determination, we determined that, because 18.3 percent of the equity infusion was purchased by private shareholders, the sale of these shares provides the market-determined price for Dalmine's equity. Furthermore, in accordance with § 355.44(e)(1) of the Department's *Proposed Regulations*, we preliminarily determined that the equity infusion is not countervailable because the market-determined price for equity purchased from Dalmine is not less than the price paid by ILVA for the same form of equity. We did not learn anything at verification that would lead

us to reconsider our preliminary determination. Therefore, we continue to find that the equity infusion is not countervailable.

B. European Social Fund ("ESF") Grants

The ESF was established by the 1957 European Economic Community Treaty to increase employment and help raise worker living standards.

As described in Grain-Oriented Electrical Steel, the ESF receives its funds from the EC's general budget of which the main revenue sources are customs duties, agricultural levies, value-added taxes collected by the member states, and other member state contributions.

The member states are responsible for selecting the projects to be funded by the EC. The EC then disburses the grants to the member states which manage the funds and implement the projects. According to the EC, ESF grants are available to (1) people over 25 who have been unemployed for more than 12 months; (2) people under 25 who have reached the minimum school-leaving age and who are seeking a job; and (3) certain workers in rural areas and regions characterized by industrial decline or lagging development.

The GOI has stated that the ESF grants received by Italy have been used for vocational training. Certain regions in the South are also eligible for private sector re-entry and retraining schemes. Since 1990, the vocational training grants have been available to unemployed youths and long-term unemployed adults all over Italy, according to the GOI. Before 1990, however, the GOI gave preference to certain regions in Italy.

In Grain-Oriented Electrical Steel, we determined that this program was not regionally specific and not otherwise limited to a specific enterprise or industry, or group of enterprises or industries. Furthermore, we noted that to the extent there is a regional preference (*i.e.*, southern Italy) in the distribution of ESF benefits, it has not resulted in a countervailable benefit to the production of the subject merchandise, which is produced in northern Italy.

Information provided by the GOI in this investigation is consistent with the information provided in Grain-Oriented Electrical Steel. Therefore, we determine that this program is not limited to a specific enterprise or industry, or group of enterprises or industries, and therefore, is not countervailable.

C. ECSC Article 54 Loans

Under Article 54 of the 1951 ECSC Treaty, the European Commission provides loans directly to iron and steel companies for modernization and the purchase of new equipment. The loans finance up to 50 percent of an investment project. The remaining financing needs must be met from other sources. The Article 54 loan program is financed by loans taken by the Commission, which are then re-lent to iron and steel companies in the member states at a slightly higher interest rate than that at which the Commission obtained them.

Consistent with the Department's finding in Grain-Oriented Electrical Steel, we determine that this program is limited to the iron and steel industry. As a result, loans under this program are specific.

Of the Article 54 loans Dalmine had outstanding during the POI, some were denominated in U.S. dollars and others were in Dutch guilders ("NLG"). To determine whether the loans were provided on terms inconsistent with commercial considerations, we used the benchmark interest rates for the currencies in which the loans were denominated. That is, for the U.S. dollar loans we used the average interest rate on long-term fixed-rate U.S. dollar loans obtained in the United States, as reported by the Federal Reserve. For the NLG denominated loan, we used the average long-term bond rate for private borrowers in the Netherlands, as reported by the Organization for Economic Cooperation and Development ("OECD").

Because the interest rates paid on Dalmine's Article 54 loans are higher than the benchmark interest rates, the Department determines that loans provided under this program are not inconsistent with commercial considerations and, therefore, not countervailable.

D. 1989 Provisional Payment in Connection with 1989 Equity Infusion

In March 1989, ILVA made a payment to Dalmine in anticipation of purchasing new shares in Dalmine. The payment was provisional in nature because EC authorization of the capital increase was necessary and, if authorization was not granted, the money would have been repaid to ILVA. The capital increase was not finalized until November 1989, due to delays in EC approval. At that time, the payment became equity capital.

Consistent with the Department's position in Grain-Oriented Electrical Steel, we determine that the funds provided by ILVA to Dalmine are countervailable.

During the period March-November 1989, Dalmine had use of the money and paid no interest on it. Therefore, we have treated the funds provided by ILVA to Dalmine as an interest-free short-term loan from March 1989 to November 1989.

Because any benefit from this interest-free loan would be allocable entirely to 1989, no benefit is attributable to the POI.

III. Programs Determined To Be Not Used

We established at verification that the following programs were not used during the POI.

1. *Preferential IMI Export Financing Under Law 227/77.*
2. *Preferential Insurance Under Law 227/77.*
3. *Retraining Grants under Law 181/89.*
4. *Benefits under ECSC Article 56.*

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, examination of relevant accounting records and examination of original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B-099 of the Main Commerce Building).

Suspension of Liquidation

In accordance with our affirmative preliminary determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of OCTG from Italy, which were entered or withdrawn from warehouse for consumption, on or after December 2, 1994, the date our preliminary determination was published in the **Federal Register**. This final countervailing duty determination was aligned with the final antidumping duty determination of OCTG from Italy, pursuant to section 606 of the Trade and Tariff Act of 1984 (section 705(a)(1) of the Act).

Under article 5, paragraph 3 of the GATT subsidies Code, provisional measures cannot be imposed for more than 120 days without a final affirmative determination of subsidization and injury. Therefore, we instructed the U.S. Customs Service to discontinue the suspension of liquidation on the subject merchandise entered on or after April 1, 1995, but to continue the suspension of liquidation

of all entries, or withdrawals from warehouse, for consumption of the subject merchandise between November 28, 1994, and March 31, 1995. We will reinstate suspension of liquidation under section 703(d) of the Act, if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated below.

OCTG

Country-Wide *Ad Valorem* Rate 1.47 percent

ITC Notification

In accordance with section 705(c) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue a countervailing duty order.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act and 19 CFR 355.20(a)(4).

Dated: June 29, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–15623 Filed 6–27–95; 8:45 am]

BILLING CODE 3510–DS–P

UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

JUL 19 1995

A-433-805
Investigation
Public Document

Honorable Peter S. Watson
Chairman
International Trade Commission
500 E. Street, S.W.
Washington, D.C. 20436

731-TA-712F

Re: Clerical Error Allegations: Final Determination of Sales at Less Than Fair Value: Oil-Country Tubular Goods from Austria

Dear Mr. Chairman:

This letter is to inform you that on June 30, 1995, counsel for petitioners in the above-referenced investigation alleged that the Department had made a ministerial errors in its final margin calculations. Upon review of the allegations and the final antidumping duty margin calculations, the Department agreed that two of the three allegations correctly identified ministerial errors. The final margin has now changed from 12.72 percent to 25. 90 percent.

Should your final injury determination be affirmative, the antidumping duty order will amend the final margin for Kindberg, and thus the all-others rate, to 25.90 percent.

Sincerely,

for Barbara R. Stafford
Deputy Assistant Secretary
for Import Administration

95 JUL 20 P2:32

RECEIVED
OFC OF THE SEC
U.S.INTL TRADE

APPENDIX C

WITNESSES APPEARING AT THE COMMISSION'S HEARING

Those listed below appeared as witnesses at the Commission's public hearing on OCTG on June 27, 1995. Public and *in camera* sessions were held in connection with the investigations in the Commission's main hearing room in Washington, D.C.

In Support of Imposition of Countervailing and Antidumping Duties:

Panel 1

Skadden, Arps, Slate, Meagher and Flom
Washington, D.C.
on behalf of

Koppel Steel Corp.
USX Corp.
U.S. Steel Group (a unit of USX Corp.)
USS/Kobe Steel Co.

Paul Wilhelm, President, U.S. Steel Group

David Lohr, General Manager, Tubular Products Division, U.S. Steel Group

Don Dabkowski, Manager of Metallurgy and Quality Assurance, Tubular Products Division, U.S. Steel Group

Joe Scherrbaum, Manager for Sales and Marketing, U.S. Steel Group

Gary Gajdzik, General Manager of Tubular Operations, USS/Kobe Steel Co.

Bart Niemeyer, Vice President of Sales, and Marketing, Koppel Steel Co.

Thomas McGrann, President, Tubular Corp. of America

John J. Mangan)
Stephen J. Narkin) —OF COUNSEL

Panel 2

Schagrin Associates
Washington, D.C.
on behalf of

Bellville Tubular Corp.
IPSCO Tubular, Inc.
Maverick Tube Corp.
Lone Star Steel Co.

In Support of Imposition of Countervailing and Antidumping Duties -- Continued

Byron Dunn, Executive Vice President, Sales and Marketing, Lone Star Steel Co.

Gregg Eisenberg, President, Maverick Tube Corp.

Robert Pond, Vice President, Bellville Tubular Corp.

Roger B. Schagrin)
R. Alan Luberda) --OF COUNSEL

Panel 3

Wiley, Rein and Fielding
Washington, D.C.
on behalf of

North Star Steel Ohio
North Star Steel Co.

William Swift, General Sales Manager, North Star Steel Ohio

Michael Ring, International Sales Manager, North Star Steel Co.

Steven Filips, Vice President and General Manager, North Star Steel Co.

Charles Owen Verrill, Jr.)
John R. Shane) --OF COUNSEL

Panel 4

Skadden, Arps, Slate, Meagher and Flom
Washington, D.C.
on behalf of

USX Corp.
U.S. Steel Group (a unit of USX Corp.)
USS/Kobe Steel Co.

In Support of Imposition of Countervailing and Antidumping Duties -- Continued

Henry Zarrow, President, Sooner Pipe and Supply Corp.

Denis Schmitz, Vice President Inside Sales, Sooner Pipe and Supply Corp.

Michael R. Chaddick, President, Wilson Industries

Richard R. Stewart, Vice President and General Manager, Vinson Supply Co.

Lewis Ketchum, President, Red Man Pipe and Supply Co.

John Shoaff, Manager Operations Support, National Oilwell

John J. Mangan)
Stephen J. Narkin) --OF COUNSEL

Panel 5 Economists' Presentation

Joseph W. McAnneny, Ph.D., Economic Consultant, Economists, Inc.

Robert D. Stoner, Ph.D., Economic Consultant, Economists, Inc.

Stephen J. Narkin)
John M. Ryan) --OF COUNSEL

In Opposition to the Imposition of Countervailing and Antidumping Duties:

Panel 1

Wilmer, Cutler and Pickering
Washington, D.C.
on behalf of

Sumitomo Metal Industries, Ltd.
Kawasaki Steel Corp.

John D. Greenwald --OF COUNSEL

Economist Presentation

Dr. Bruce Malashevich, President,
Economic Consulting Services, Inc.

Willkie, Farr and Gallagher
Washington, D.C.
on behalf of

NKK Steel Corp.
MC Tubular Products, Inc.

Alan Orr, Vice President and Chief Engineer,
Helmerich & Payne International Drilling Co.

Robert Hickethier, President and CEO,
Hickethier & Co.

Christopher Dunn)
Daniel L. Porter) --OF COUNSEL

Panel 2

Mudge, Rose, Guthrie, Alexander
and Ferdon
Washington, D.C.
on behalf of

Siderca S.A.I.C.
Siderca Corp.
TAMSA, S.A.
TAMSA Inc.

Alfredo A. Indaco, President, Siderca Corp.

Tom Behanick, Vice President of Sales,
Siderca Corp.

David P. Houlihan)
N. David Palmeter) --OF COUNSEL
Richard G. King)

In Opposition to the Imposition of Countervailing and Antidumping Duties -- Continued

George V. Egge, Jr., PC
Washington, D.C.
on behalf of

Tubos Reunidos, S.A.

John A. Cary, President of Tubos Reunidos America, Inc.

George V. Egge, Jr.--OF COUNSEL

Akin, Gump, Strauss, Hauser and Feld
Washington, D.C.
on behalf of

Pusan Steel Pipe Co., Ltd.
Union Steel Manufacturing Co., Ltd.
Dongbu Steel Co., Ltd.
Korea Steel Pipe Co., Ltd.

Warren E. Connelly--OF COUNSEL

Wilmer, Cutler and Pickering
Washington, D.C.
on behalf of

Sumitomo Metal Industries, Ltd.
Kawasaki Steel Corp.

John D. Greenwald--OF COUNSEL

Panel 3

Barnes, Richardson and Colburn
Washington, D.C.
on behalf of

Voest-Alpine Stahlrohr Kindberg, GmbH
Voest-Alpine Tubular Corp.

Fritz Oberreiter, Controller, Voest-Alpine Stahlrohr Kindberg GmbH

Hilkka Witt, President, Voest-Alpine Tubular Corp.

Gunter von Conrad)
Peter A. Martin)--OF COUNSEL
Mark T. Wasden)

In Opposition to the Imposition of Countervailing and Antidumping Duties -- Continued

Rogers and Wells
Washington, D.C.
on behalf of

Dalmine S.p.A.

Ryan Trainer--OF COUNSEL

INTERESTED PARTY

Lindsay McLaughlin, Washington Representative, International Longshoremen's & Warehousemen's Union, Washington, D.C.

APPENDIX D

COMMENTS BY THE U.S. PRODUCERS ON THE IMPACT OF IMPORTS OF OCTG ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, AND DEVELOPMENT AND PRODUCTION EFFORTS

Response of U.S. producers to the following questions:

1. Since January 1, 1992, has your firm experienced any actual negative effects on its growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced version of the product, as a result of imports of OCTG (casing, tubing, and/or drill pipe) from Argentina, Austria, Italy, Japan, Korea, Mexico, and/or Spain?

* * * * * * *

2. Does your firm anticipate any negative impact of imports of OCTG (casing, tubing, and/or drill pipe) from Argentina, Austria, Italy, Japan, Korea, Mexico, and/or Spain?

* * * * * * *

3. Has the scale of capital investments undertaken been influenced by the presence of imports of OCTG (casing, tubing, and/or drill pipe) from Argentina, Austria, Italy, Japan, Korea, Mexico, and/or Spain?

* * * * * * *

4. With respect to your firm's operations on drill pipe only, have you, since January 1, 1992, lost sales or revenues or experienced any negative effects on your firm's growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced version of the product, as a result of imports of drill pipe from Argentina, Austria, Italy, Japan, Korea, Mexico, and/or Spain?

* * * * * * *

5. With respect to your firm's processing/finishing operations on OCTG, have you, since January 1, 1992, lost sales or revenues or experienced any negative effects on your firm's growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced version of the product, as a result of imports of OCTG (casing, tubing, and/or drill pipe) from Argentina, Austria, Italy, Japan, Korea, Mexico, and/or Spain?

Threaders

* * * * * * *

Processors

* * * * * * *

APPENDIX E

SUPPLEMENTAL FOREIGN INDUSTRY DATA

Table E-1
Drill pipe: Argentine capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

Table E-2
OCTG excluding drill pipe: Argentine capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

Table E-3
Drill pipe: Japanese capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

Table E-4
OCTG excluding drill pipe: Japanese capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

Table E-5
Drill pipe: Mexican capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

Table E-6
OCTG excluding drill pipe: Mexican capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

APPENDIX F

SPECIALTY PRODUCTS, ALASKAN SHIPMENTS, AND SHIPMENTS BY FINISHES

Specialty Products and Alaskan Shipments

PRODUCT 1.--Seamless J-55 tubes (special chemistry), with carbon and alloy content necessary to make them upgradeable by quenching and tempering to API grades N-80; L-80; or P-110, Range 2, with an O.D. of 2-3/8 inches and weight of 4.43 pounds per linear foot.

PRODUCT 2.--Seamless J-55 tubes (special chemistry), with carbon and alloy content necessary to make them upgradeable by quenching and tempering to API grades N-80; L-80; or P-110, Range 2, with an O.D. of 2-7/8 inches and weight of 6.16 pounds per linear foot.

PRODUCT 3.--Seamless J-55 tubes (special chemistry), with carbon and alloy content necessary to make them upgradeable by quenching and tempering to API grades N-80; L-80; or P-110, Range 2, with an O.D. of 3-1/2 inches and weight of 8.81 pounds per linear foot.

PRODUCT 4.--Seamless N-80 tubes (special chemistry), with carbon and alloy content necessary to allow them to be normalized without quenching and tempering, with an O.D. of 2-3/8 inches and weight of 4.43 pounds per linear foot.

PRODUCT 5.--Seamless N-80 tubes (special chemistry), with carbon and alloy content necessary to allow them to be normalized without quenching and tempering, with an O.D. of 2-7/8 inches and weight of 6.16 pounds per linear foot.

PRODUCT 6.--Seamless N-80 tubes (special chemistry), with carbon and alloy content necessary to allow them to be normalized without quenching and tempering, with an O.D. of 3-1/2 inches and weight of 8.81 pounds per linear foot.

PRODUCT 7.--*Extremely high sour resistance*--Casing or tubing, regardless of the type of end finish and regardless of its wall thickness, having threshold stress of not less than 85 percent of its specified minimum yield strength under NACE TM-01-77 Method A or critical stress value of not less than 10 under Shell Type Bent-Beam Method.

PRODUCT 8.--*High-yield-strength resistance for deep well*--Casing or tubing, regardless of the type of end finish and regardless of its wall thickness, having a minimum yield strength of more than 125,000 psi.

PRODUCT 9.--*Qualified high quality*--Casing or tubing, regardless of the type of end finish and regardless of its wall thickness, meeting with any of the following specifications issued by Mobil or Shell:

> Mobil Supplementary Specification for J-55 grade casing & tubing (Level II) issued on 2/2/88; L-80 grade casing & tubing (Level II) issued on 2/13/87; L-80 grade casing & tubing (Level IV) issued on 2/13/87; C-95 grade casing & tubing (Level II) issued on 2/13/87; P-105 grade casing & tubing (Level II) issued on 2/13/87; Q-125 grade casing (Level III) issued on 2/13/87; C-90 grade casing & tubing (Level IV) issued on 2/13/87; or T-95 grade casing & tubing (Level IV) issued on 8/16/91 with annexed specification issued on 4/24/90; **OR**
> Shell Offshore Inc. Specification for controlled yield, high toughness P-110 grade casing & tubing.

PRODUCT 10.--*Heavy wall*--Casing or tubing, regardless of the type of end finish, having a wall thickness of more than one (1) inch and satisfying neither the Mobil Supplementary Specifications nor the Shell Offshore Inc. Specification listed for PRODUCT 9.

PRODUCT 11.--Unfinished (not upset, heat treated (*if needed*), and/or tool joined) heavy-weight drill pipe (a seamless, heavy-walled tubular product generally made of carbon-grade steel, with an O.D. of 4 inches or greater and a wall thickness of 1 inch or greater).

PRODUCT 12.--Unfinished (not upset, heat treated (*if needed*), and/or tool joined) standard-weight drill pipe (not meeting the criteria specified in PRODUCT 11).

PRODUCT 13.--Mill-finished heavy-weight drill pipe with tool joint.

PRODUCT 14.--Mill-finished standard-weight drill pipe with tool joint.

PRODUCT 15.--Casing, tubing, or drill pipe shipped to Alaska which are required to meet any of the following "critical service" requirements: high collapse resistance (20 percent or more higher than API standards); low temperature impact resistance (high impact toughness that absorbs notch impact energy of 20 ft-lbs. at minimum and 25 ft-lbs. on average, for service at minus 50 degrees Fahrenheit); or premium joints (high gas seal and torque integrity).

PRODUCT 16.--Casing, tubing, or drill pipe shipped to Alaska which are **NOT** required to meet any of the "critical service" requirements listed for PRODUCT 15.

Table F-1
Specialty products: U.S. shipments of domestic product, U.S. shipments of imports, by sources, and apparent U.S. consumption, by products, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

Table F-2
Alaskan shipments: U.S. shipments of domestic product, U.S. shipments of imports, by sources, and apparent U.S. consumption of OCTG shipments to Alaska, by products, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

Table F-3
OCTG: U.S. shipments of imports, by finishes and by sources, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.-- 1994	1995
	Quantity (*short tons*)				
Unfinished:					
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	***	***	***	***	***
Korea (LTFV)	***	***	***	***	***
Mexico	***	***	***	***	***
Spain	***	***	***	***	***
Subtotal	41,648	90,190	85,983	23,934	9,237
Other sources	26,587	31,445	31,725	5,317	6,936
Total	68,235	121,645	117,708	29,251	16,173
Finished:					
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	***	***	***	***	***
Korea (LTFV)	***	***	***	***	***
Mexico	***	***	***	***	***
Spain	***	***	***	***	***
Subtotal	90,378	170,495	157,607	40,905	19,972
Other sources	9,401	19,152	34,023	8,297	10,503
Total	99,779	189,647	191,630	49,202	30,475
Total:					
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	***	***	***	***	***
Korea (LTFV)	***	***	***	***	***
Mexico	***	***	***	***	***
Spain	***	***	***	***	***
Subtotal	132,026	260,685	243,590	64,839	29,209
Other sources	35,988	50,607	65,748	13,614	17,439
Total	168,014	311,292	309,338	78,453	46,648

Continued on the following page.

Table F-3 -- Continued
OCTG: U.S. shipments of imports, by finishes and by sources, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.-- 1994	1995
	Unit value (*per short ton*)				
Unfinished:					
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	***	***	***	***	***
Korea (LTFV)	***	***	***	***	***
Mexico	***	***	***	***	***
Spain	***	***	***	***	***
Subtotal	864.96	710.01	728.53	763.68	729.67
Other sources	698.24	639.04	605.11	684.22	769.75
Total	800.00	691.66	695.26	749.24	746.86
Finished:					
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	***	***	***	***	***
Korea (LTFV)	***	***	***	***	***
Mexico	***	***	***	***	***
Spain	***	***	***	***	***
Subtotal	956.48	870.83	815.33	822.98	891.00
Other sources	921.71	873.80	788.11	711.58	812.72
Total	953.21	871.13	810.49	804.19	864.02
Total:					
Argentina	***	***	***	***	***
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Japan	***	***	***	***	***
Korea (LTFV)	***	***	***	***	***
Mexico	***	***	***	***	***
Spain	***	***	***	***	***
Subtotal	927.61	815.19	784.69	801.09	839.98
Other sources	756.61	727.88	699.81	700.90	795.63
Total	890.99	801.00	766.65	783.70	823.40

Source: Compiled from data submitted in response to Commission questionnaires.